

ATTACHMENT 8

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1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

)
IN RE: PROCESSED EGG)
PRODUCTS ANTITRUST)
LITIGATION)
_____)MDL No. 2002
)08-MD-0200

THIS DOCUMENT APPLIES TO:)
ALL ACTIONS)
_____)

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VIDEOTAPED DEPOSITION OF DONALD L. BELL
Riverside, California
Tuesday, August 20, 2013

Reported by:
DENISE BARDSLEY
CSR No. 11241

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<p style="text-align: right;">2</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA 3 _____) 4 IN RE: PROCESSED EGG) 5 PRODUCTS ANTITRUST) 6 LITIGATION))MDL No. 2002 7 _____)08-MD-0200 8 THIS DOCUMENT APPLIES TO:) 9 ALL ACTIONS) 10 _____) 11 12 Videotaped deposition of DONALD L. BELL, 13 taken on behalf of The Direct Purchaser Plaintiffs, 14 at 3500 Market Street, Riverside, California, 15 beginning at 10:01 a.m. and ending at 1:16 p.m. 16 on Tuesday, August 20, 2013, before DENISE 17 BARDSLEY, Certified Shorthand Reporter No. 11241. 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">4</p> <p>1 APPEARANCES (continued): 2 3 For The Indirect Purchaser Plaintiffs: 4 MILBERG LLP 5 One Pennsylvania Plaza 6 New York, New York 10119 7 (646) 733-5727 8 (No appearance.) 9 10 For Indirect Action Plaintiffs: 11 LOVELL STEWART HALEBIAN & JACOBSON LLP 12 BY: MERRICK SCOTT RAYLE 13 Attorney at Law 14 61 Broadway, Suite 501 15 New York, New York 10006 16 (212) 608-1900 17 msrayle@sbcglobal.net 18 19 For Weaver Brothers: 20 DISNMORE & SHOHL LLP 21 1100 Courthouse Plaza SW 22 10 North Ludlow Street 23 Dayton, Ohio 45402 24 (937) 463-4928 25 (No appearance.)</p>
<p style="text-align: right;">3</p> <p>1 APPEARANCES: 2 3 For The Direct Purchaser Plaintiffs: 4 QUINN EMANUEL URQUHART & SULLIVAN, LLP 5 BY: STEIG D. OLSON 6 Attorney at Law 7 51 Madison Avenue, 22nd Floor 8 New York, New York 10010 9 (212) 849-7152 10 steigolson@quinnemanuel.com 11 12 For The Direct Purchaser Plaintiffs: 13 HAUSFELD, LLP 14 BY: JAMES J. PIZZIRUSSO 15 Attorney at Law 16 1604 Locust Street, 2nd Floor 17 Philadelphia, Pennsylvania 19103 18 (215) 985-3270 19 jpizzirusso@hausfeldllp.com 20 21 22 23 24 25</p>	<p style="text-align: right;">5</p> <p>1 APPEARANCES (continued): 2 3 For the Deponent: 4 UNIVERSITY OF CALIFORNIA 5 BY: MICHAEL R. GOLDSTEIN 6 Attorney at Law 7 1111 Franklin Street, 8th Floor 8 Oakland, California 94607 9 (510) 987-9895 10 michael.goldstein@ucop.edu 11 12 For Midwest Poultry Services: 13 FAEGRE BAKER DANIELS 14 BY: KATHY L. OSBORN 15 Attorney at Law 16 300 North Meridian Street, Suite 2700 17 Indianapolis, Indiana 46204-1750 18 (317) 237-1144 19 kathy.osborn@faegrebd.com 20 (Telephonic appearance.) 21 22 23 24 25</p>

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<p style="text-align: right;">6</p> <p>1 APPEARANCES (continued):</p> <p>2</p> <p>3 For RW Sauder, Inc.:</p> <p>4 DECHERT LLP</p> <p>5 2929 Arch Street</p> <p>6 Philadelphia, Pennsylvania 19104</p> <p>7 (215) 994-2421</p> <p>8 (No appearance.)</p> <p>9</p> <p>10 For United Egg Producers and the United States Egg</p> <p>11 Marketers:</p> <p>12 PEPPER HAMILTON, LLP</p> <p>13 BY: WHITNEY REDDING</p> <p>14 Attorney at Law</p> <p>15 3000 Two Logan Square</p> <p>16 Philadelphia, Pennsylvania 19103</p> <p>17 (215) 981-4714</p> <p>18 reddingw@pepperlaw.com</p> <p>19 (Telephonic appearance.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">8</p> <p>1 APPEARANCES (continued):</p> <p>2</p> <p>3 For Rose Acre Farms:</p> <p>4 PORTER, WRIGHT, MORRIS & ARTHUR</p> <p>5 BY: KARRI ALLEN</p> <p>6 Attorney at Law</p> <p>7 1919 Pennsylvania Avenue NW, Suite 500</p> <p>8 Washington, D.C. 20006</p> <p>9 (202) 778-3056</p> <p>10 kallen@porterwright.com</p> <p>11 (Telephonic appearance.)</p> <p>12</p> <p>13 For Nu-Cal Foods, Inc.:</p> <p>14 KASOWITZ BENSON TORRES & FRIEDMAN, LLP</p> <p>15 BY: JASON S. TAKENOUCI</p> <p>16 Attorney at Law</p> <p>17 101 California Street</p> <p>18 San Francisco, California 94111</p> <p>19 (415) 655-4335</p> <p>20 jtakenouchi@kasowitz.com</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">7</p> <p>1 APPEARANCES (continued):</p> <p>2</p> <p>3 For Giant Eagle, Inc.:</p> <p>4 MARCUS & SHAPIRA LLP</p> <p>5 One Oxford Center, 35th Floor</p> <p>6 Pittsburgh, Pennsylvania 15219</p> <p>7 (412) 338-3344</p> <p>8 (No appearance.)</p> <p>9</p> <p>10 For Cal-Maine Foods, Inc.:</p> <p>11 GIBSON, DUNN & CRUTCHER LLP</p> <p>12 2100 McKinney Avenue</p> <p>13 Dallas, Texas 75201-6912</p> <p>14 (214) 698-3279</p> <p>15 (No appearance.)</p> <p>16</p> <p>17 For Sparboe Farms, Inc.:</p> <p>18 BRIGGS AND MORGAN</p> <p>19 2200 IDS Center</p> <p>20 80 South 8th Street</p> <p>21 Minneapolis, Minnesota 55402</p> <p>22 (612) 977-8415</p> <p>23 (No appearance.)</p> <p>24</p> <p>25</p>	<p style="text-align: right;">9</p> <p>1 APPEARANCES (continued):</p> <p>2</p> <p>3 For Hillandale Farms, Inc., Hillandale Farms East,</p> <p>4 Inc., Hillandale Gettysburg LP and Hillandale Farms</p> <p>5 of Pa., Inc.:</p> <p>6 BUCHANAN, INGERSOLL & ROONEY</p> <p>7 Two Liberty Place</p> <p>8 50 South 16th Street, Suite 3200</p> <p>9 Philadelphia, Pennsylvania 19102</p> <p>10 (215) 665-3884</p> <p>11 (No appearance.)</p> <p>12</p> <p>13 For the Direct Action Plaintiffs:</p> <p>14 JENNER & BLOCK</p> <p>15 BY: STEPHEN R. BROWN</p> <p>16 BY: RICHARD CAMPBELL (Telephonic appearance)</p> <p>17 Attorneys at Law</p> <p>18 353 North Clark Street, Suite 4500</p> <p>19 Chicago, Illinois 60654-3456</p> <p>20 (312) 840-7282</p> <p>21 stephenbrown@jenner.com</p> <p>22 richardcampbell@jenner.com</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">10</p> <p>1 APPEARANCES (continued):</p> <p>2</p> <p>3 For Michael Foods:</p> <p>4 LEONARD, STREET & DEINARD</p> <p>5 BY: PETER J. SCHWINGLER</p> <p>6 Attorney at Law</p> <p>7 150 South Fifth Street, Suite 2300</p> <p>8 Minneapolis, Minnesota 55402</p> <p>9 612 335-7023</p> <p>10 peterschwingler@leonard.com</p> <p>11 (Telephonic appearance.)</p> <p>12</p> <p>13 For Moark LLC and Norco Ranch, Inc.</p> <p>14 EIMER STAHL, LLP</p> <p>15 BY: TRAVIS KENNEDY</p> <p>16 Attorney at Law</p> <p>17 224 South Michigan Avenue, Suite 1300</p> <p>18 Chicago, Illinois 60604</p> <p>19 (312) 660-7604</p> <p>20 tkennedy@eimerstahl.com</p> <p>21 (Telephonic appearance.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">12</p> <p>1 INDEX</p> <p>2 WITNESS EXAMINATION</p> <p>3 DONALD L. BELL</p> <p>4</p> <p>5</p> <p>6 BY MR. OLSON 19</p> <p>7</p> <p>8</p> <p>9</p> <p>10 EXHIBITS</p> <p>11 EXHIBIT DESCRIPTION PAGE</p> <p>12 Exhibit 1 E-mail from Gene Gregory to 22</p> <p>13 Jeff Armstrong, et al., 4/13/09</p> <p>14 Bates No. SF003886</p> <p>15</p> <p>16 Exhibit 2 Managing the Nation's Laying 51</p> <p>17 Flock 1992 by Don Bell</p> <p>18 Bates Nos. BELL-D-00031284 to -295</p> <p>19</p> <p>20 Exhibit 3 UEP United Voices, 2/22/99 70</p> <p>21 Bates Nos. UE0064537 to -539</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">11</p> <p>1 APPEARANCES (continued):</p> <p>2</p> <p>3 For Winn-Dixie, Inc., Roundy's Supermarkets, Inc.,</p> <p>4 C&S Wholesaler Grocers, Inc., and H.J. Heinz</p> <p>5 Company, L.P.:</p> <p>6 BAKER & MCKENZIE LLP</p> <p>7 300 East Randolph Street</p> <p>8 Chicago, Illinois 60601</p> <p>9 (312) 861-3735</p> <p>10 (No appearance.)</p> <p>11</p> <p>12 For Ohio Fresh Eggs:</p> <p>13 KEATING MUETHING & KLEKAMP PLL</p> <p>14 BY: JOSEPH M. CALLOW, JR.</p> <p>15 Attorney at Law</p> <p>16 One East Fourth Street, Suite 1400</p> <p>17 Cincinnati, Ohio 45202-3752</p> <p>18 (513) 579-6400</p> <p>19 jcallow@kmklaw.com</p> <p>20 (Telephonic appearance.)</p> <p>21</p> <p>22 Videographer:</p> <p>23 SCOTT SLATER, VERITEXT</p> <p>24</p> <p>25</p>	<p style="text-align: right;">13</p> <p>1 INDEX (Continued):</p> <p>2</p> <p>3 EXHIBITS</p> <p>4 EXHIBIT DESCRIPTION PAGE</p> <p>5 Exhibit 4 Cooperative Extension, University 83</p> <p>6 of California, Egg Economics</p> <p>7 Update, No. 154, 4/15/94</p> <p>8 Bates Nos. KRGE00020640 to -43</p> <p>9</p> <p>10 Exhibit 5 UEP Fax to Don Bell and Lee 85</p> <p>11 Schrader from Gene W. Gregory,</p> <p>12 7/1/99</p> <p>13 Bates Nos. BEL-D-00026787 to -788</p> <p>14</p> <p>15 Exhibit 6 Cooperative Extension, University 92</p> <p>16 of California letter to Al Pope</p> <p>17 from Donald Bell, 3/17/95</p> <p>18 Bates No. BEL-D-0032755</p> <p>19</p> <p>20 Exhibit 7 Cooperative Extension, University 93</p> <p>21 of California letter to Gene</p> <p>22 Gregory from Don Bell, 7/2/99</p> <p>23 Bates Nos. BELL007698 to -709</p> <p>24</p> <p>25</p>

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<p>1 INDEX (Continued):</p> <p>2</p> <p>3 EXHIBITS</p> <p>4 EXHIBIT DESCRIPTION PAGE</p> <p>5 Exhibit 8 UEP United Egg Voices, 8/2/99 104</p> <p>6 Bates Nos. UE0064456 to -459</p> <p>7</p> <p>8 Exhibit 9 E-mail to Animal Welfare 108</p> <p>9 Committee from Don Bell, 12/22/99</p> <p>10 Bates Nos. BELL004041 to -42</p> <p>11</p> <p>12 Exhibit 10 United States Egg Marketers, 114</p> <p>13 Inc. Letter to Don Bell from</p> <p>14 Jerry Faulkner</p> <p>15 Bates Nos. BELL004353 to -354</p> <p>16</p> <p>17 Exhibit 11 Recommendations for UEP Animal 116</p> <p>18 Welfare Guidelines Submitted by</p> <p>19 a Scientific Advisory Committee</p> <p>20 on Animal Welfare, 9/2000</p> <p>21 Bates Nos. UE0208684 to -703</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Riverside, California, Tuesday, August 20, 2013</p> <p>2 10:01 a.m.</p> <p>3</p> <p>4 THE VIDEOGRAPHER: Good morning.</p> <p>5 We are on the record at 10:01 a.m. on</p> <p>6 August 20th, 2013. This is the video-recorded</p> <p>7 deposition of Mr. Donald Bell. My name is Scott</p> <p>8 Slater, here with our court reporter, Denise</p> <p>9 Bardsley. We are here from Veritext Legal Solutions</p> <p>10 at the request of counsel for direct purchaser</p> <p>11 plaintiffs. This deposition is being held at 3500</p> <p>12 Market Street in the city of Riverside, California</p> <p>13 92501.</p> <p>14 The caption of this case is In Re:</p> <p>15 Processed Egg Products Antitrust Litigation, Case</p> <p>16 No. 2002 08-MD-0200.</p> <p>17 Please note that audio and video recording</p> <p>18 will take place unless all parties agree to go off</p> <p>19 the record. The microphones are sensitive and may</p> <p>20 pick up whispers, private conversations or cellular</p> <p>21 interference.</p> <p>22 I am not authorized to administer an oath,</p> <p>23 I am not related to any party in this action, nor am</p> <p>24 I financially interested in the outcome in any way.</p> <p>25 May I please have an agreement from all</p>
15	17
<p>1 INDEX (Continued):</p> <p>2</p> <p>3 EXHIBITS</p> <p>4 EXHIBIT DESCRIPTION PAGE</p> <p>5 Exhibit 12 E-mail from Gene Gregory to 132</p> <p>6 Don Bell, 12/12/00</p> <p>7 Bates Nos. UE0840403 to -404</p> <p>8</p> <p>9 Exhibit 13 Economic Consultant Agreement 133</p> <p>10 with Donald Bell</p> <p>11 Bates Nos. UE0790640, UE0790641,</p> <p>12 UE0790542</p> <p>13</p> <p>14 Exhibit 14 Cooperative Extension, University 135</p> <p>15 of California, An Egg Economics</p> <p>16 Update, 12/31/00</p> <p>17 Bates Nos. BELL-D-000028020 to -031</p> <p>18</p> <p>19 Exhibit 15 Don Bell's Table Egg Layer 144</p> <p>20 Flock Projections and Economic</p> <p>21 Commentary - 2002, 4/15/02</p> <p>22 Bates Nos. BELL002774 to -777</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 parties that we may proceed.</p> <p>2 MR. OLSON: Yes.</p> <p>3 THE VIDEOGRAPHER: Agreed?</p> <p>4 MR. GOLDSTEIN: Yes.</p> <p>5 MR. TAKENOUCHI: Yes.</p> <p>6 THE VIDEOGRAPHER: Thank you.</p> <p>7 At this time will counsel and all present</p> <p>8 please identify themselves for the record.</p> <p>9 MR. OLSON: Why don't we start with the</p> <p>10 people on the phone. Can you guys identify</p> <p>11 yourselves?</p> <p>12 MR. CAMPBELL: Richard Campbell, Jenner &</p> <p>13 Block, for the Kraft plaintiffs.</p> <p>14 MS. REDDING: Whitney Redding, Pepper</p> <p>15 Hamilton, for United Egg Producers and United States</p> <p>16 Egg Marketers.</p> <p>17 MR. SCHWINGLER: Peter Schwingler,</p> <p>18 Leonard, Street & Deinard, for Michael Foods.</p> <p>19 MR. OLSON: Anyone else on the phone?</p> <p>20 MR. KENNEDY: Travis Kennedy from Eimer</p> <p>21 Stahl for Moart, LLC, and Norco Ranch, Inc.</p> <p>22 MS. ALLEN: Kari Allen from Porter, Wright,</p> <p>23 Morris & Arthur on behalf of Rose Acre Farms, Inc.</p> <p>24 MR. CALLOW: Joe Callow for Ohio Fresh</p> <p>25 Eggs.</p>

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18	20
<p>1 MR. OLSON: Anyone else?</p> <p>2 MS. OSBORN: Kathy Osborn for Midwest</p> <p>3 Poultry Services.</p> <p>4 MR. OLSON: Anyone else?</p> <p>5 All right. This is Steig Olson from Quinn</p> <p>6 Emanuel Urquhart & Sullivan for the direct purchaser</p> <p>7 plaintiffs.</p> <p>8 MR. PIZZIRUSSO: James Pizzirusso, Hausfeld</p> <p>9 LLP, for the direct purchaser plaintiffs.</p> <p>10 MR. BROWN: Stephen Brown from Jenner &</p> <p>11 Block for Direct Action Plaintiffs, Kraft, Kellogg,</p> <p>12 General Mills and Nestle.</p> <p>13 MR. RAYLE: Merrick Rayle, Lovell, Stewart,</p> <p>14 Halebian & Jacobson, for the indirect plaintiffs.</p> <p>15 MR. TAKENOUCHI: Jason Takenouchi,</p> <p>16 Kasowitz, Benson, Torres & Friedman, for Defendant</p> <p>17 Nu-Cal Foods.</p> <p>18 MR. GOLDSTEIN: Michael Goldstein from the</p> <p>19 Regents of the University of California. I'm</p> <p>20 counsel for Mr. Bell.</p> <p>21 And with us here today is Kristen Erving, a</p> <p>22 paralegal.</p> <p>23 THE WITNESS: Donald Bell.</p> <p>24 MR. OLSON: You don't need to do that yet.</p> <p>25 THE VIDEOGRAPHER: Thank you very much.</p>	<p>1 with the United States Department of Agriculture.</p> <p>2 We had one here in Riverside, I can't remember what</p> <p>3 the details of that one were, but that was a two-day</p> <p>4 hearing of some kind. Maybe less than six.</p> <p>5 Q Okay. Well, let me go over just a couple</p> <p>6 ground rules, since it's been awhile.</p> <p>7 First of all, at any time today if you need</p> <p>8 to take a break for any reason, don't hesitate to</p> <p>9 let us know. Understood?</p> <p>10 A Uh-huh.</p> <p>11 Q I'm going to do my best to ask clear</p> <p>12 questions today. If I ask a question that's unclear</p> <p>13 to you, I'd ask that you stop me and ask for a</p> <p>14 clarification.</p> <p>15 Is that fair?</p> <p>16 A Uh-huh. That's fine.</p> <p>17 MR. GODLSTEIN: Before we go on, was that</p> <p>18 uh-huh a yes or no?</p> <p>19 THE WITNESS: Yes.</p> <p>20 MR. GODLSTEIN: Thank you.</p> <p>21 BY MR. OLSON:</p> <p>22 Q If you don't ask for a clarification, I'll</p> <p>23 assume you understood the question.</p> <p>24 Is that fair?</p> <p>25 A Yes.</p>
19	21
<p>1 Will the court reporter please administer</p> <p>2 the oath.</p> <p>3</p> <p>4 DONALD L. BELL,</p> <p>5 having been administered an oath, was examined and</p> <p>6 testified as follows:</p> <p>7</p> <p>8 EXAMINATION</p> <p>9 BY MR. OLSON:</p> <p>10 Q Good morning, Mr. Bell.</p> <p>11 A Good morning.</p> <p>12 Q Could you please state your full name and</p> <p>13 current address for the record.</p> <p>14 A Donald D. Bell, B-e-l-l. 5918 Intervale,</p> <p>15 I-n-t-e-r-v-a-l-e, Drive, Riverside, California</p> <p>16 92506.</p> <p>17 Q Thank you.</p> <p>18 Have you ever been deposed before?</p> <p>19 A Yes.</p> <p>20 Q When was the last time you were deposed?</p> <p>21 A Oh, maybe 15 years ago.</p> <p>22 Q What type of case was it?</p> <p>23 A Let's see, several different types of</p> <p>24 cases. I think we've had individual lawsuits about</p> <p>25 the feeding of any flocks, about the indemnification</p>	<p>1 Q You're doing a great job of this, but just</p> <p>2 to reiterate the point, because we have a court</p> <p>3 reporter today, we have to do our best not to speak</p> <p>4 over each other. And in answering questions, please</p> <p>5 answer verbally, and yes or no as opposed to</p> <p>6 gestures.</p> <p>7 Fair enough?</p> <p>8 A Yes.</p> <p>9 Q All right. Now, how are you feeling today,</p> <p>10 sir?</p> <p>11 A I'm feeling about normal for me, a little</p> <p>12 backache, but that's okay.</p> <p>13 Q Okay. And, as I said, if you need to</p> <p>14 stretch your back or anything, let us know.</p> <p>15 Is there anything today about your health</p> <p>16 or otherwise that would stop you from being able to</p> <p>17 answer my questions truthfully to the best of your</p> <p>18 knowledge?</p> <p>19 A Not to the best of my knowledge.</p> <p>20 Q And if you ever start to tire and your mind</p> <p>21 is feeling fuzzy or anything, again, I'd ask that</p> <p>22 you stop and let us know.</p> <p>23 Will you do that?</p> <p>24 A Yes.</p> <p>25 Q Thank you.</p>

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<p style="text-align: right;">22</p> <p>1 Are you employed today?</p> <p>2 A No. I'm retired.</p> <p>3 Q How long have you been retired?</p> <p>4 A Since 2001.</p> <p>5 Q When was the last time that you received</p> <p>6 any compensation for any type of job or consulting</p> <p>7 project involving the egg industry?</p> <p>8 A There's correspondence to that effect when</p> <p>9 I gave the United Egg Producers a wish to terminate</p> <p>10 my relationship because of my age and lack of close</p> <p>11 contact with the industry. That might have been --</p> <p>12 I'd hate to give it to you, because it is in</p> <p>13 correspondence.</p> <p>14 Q Okay. And so I think I know what you're</p> <p>15 referring to, so why don't we just introduce the</p> <p>16 document that goes to that.</p> <p>17 From time to time today I'll hand you</p> <p>18 documents. Sometimes I'll -- it will be important</p> <p>19 for you to look at the whole document, other times</p> <p>20 maybe just portions. But if you ever think you need</p> <p>21 to look at the whole document, just let us know.</p> <p>22 (Deposition Exhibit 1 was marked for</p> <p>23 identification by the court reporter</p> <p>24 and is attached hereto.)</p> <p>25 BY MR. OLSON:</p>	<p style="text-align: right;">24</p> <p>1 A The answer is yes.</p> <p>2 Q Okay. After that date of July 1, 2009,</p> <p>3 have you done any work or consulting in the egg</p> <p>4 industry that you were paid for?</p> <p>5 A No.</p> <p>6 Q Now, you referred to retiring in 2001.</p> <p>7 What did you retire from in 2001?</p> <p>8 A Well, my position was University of</p> <p>9 California poultry specialist statewide. Now my</p> <p>10 title is emeritus in that same title.</p> <p>11 Q Okay. So after 2001 you became emeritus?</p> <p>12 A Yes.</p> <p>13 Q And what is a poultry specialist?</p> <p>14 A A poultry specialist is one of the staff of</p> <p>15 the state land grant institution in the cooperative</p> <p>16 extension, not university extension, but cooperative</p> <p>17 extension.</p> <p>18 This organization is part of the role of</p> <p>19 the university to teach, research and extend</p> <p>20 information.</p> <p>21 My role was to work with the poultry</p> <p>22 industry of California, mostly in educational,</p> <p>23 research areas.</p> <p>24 Q Did you teach courses in that position?</p> <p>25 A Just adult courses from time to time, but</p>
<p style="text-align: right;">23</p> <p>1 Q I'm handing you what's been marked Bell 1.</p> <p>2 MR. TAKENOUCHI: Steig, for housekeeping</p> <p>3 purposes, can you note the Bates number?</p> <p>4 MR. OLSON: We already talked about that.</p> <p>5 MR. TAKENOUCHI: Okay.</p> <p>6 MR. OLSON: And Bell 1 is Bates-stamped</p> <p>7 SF003886.</p> <p>8 Q And you can keep it in front of you.</p> <p>9 Can you just start by identifying this as</p> <p>10 an e-mail written by Gene Gregory on April 13, 2009</p> <p>11 and you were copied and it was sent to a number of</p> <p>12 people?</p> <p>13 A That's true, yes.</p> <p>14 Q Okay. Is this the type of correspondence</p> <p>15 that you're referring to?</p> <p>16 A Yes, this is what I was referring to.</p> <p>17 Q All right. And this indicates that you had</p> <p>18 informed UEP in early 2009 that you were going to</p> <p>19 finally retire effective July 1, 2009, correct?</p> <p>20 MR. TAKENOUCHI: Objection to form.</p> <p>21 THE WITNESS: Yes.</p> <p>22 MR. OLSON: What's the objection?</p> <p>23 MR. TAKENOUCHI: Leading.</p> <p>24 BY MR. OLSON:</p> <p>25 Q The answer is yes?</p>	<p style="text-align: right;">25</p> <p>1 nothing formal.</p> <p>2 Q And over what period did you hold that</p> <p>3 position?</p> <p>4 A 55 years.</p> <p>5 Q Does that go through 2001 or through to the</p> <p>6 present?</p> <p>7 A Can I correct myself?</p> <p>8 Q Yes.</p> <p>9 A I had several positions in the same general</p> <p>10 area. As I got older, I got -- I had changes in</p> <p>11 title. Okay? But it is all doing the same thing.</p> <p>12 Q Okay. And approximately when did you start</p> <p>13 in that position?</p> <p>14 A 1958.</p> <p>15 Q Now, over the course of your career in that</p> <p>16 position and afterwards, did you make any</p> <p>17 contributions to UEP and its members?</p> <p>18 MR. TAKENOUCHI: Objection.</p> <p>19 MR. OLSON: What's the objection?</p> <p>20 MR. TAKENOUCHI: Contributions, what does</p> <p>21 that mean?</p> <p>22 THE WITNESS: I don't know what that means</p> <p>23 either.</p> <p>24 BY MR. OLSON:</p> <p>25 Q Okay. Did you contribute any reports or</p>

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<p style="text-align: right;">26</p> <p>1 analyses to UEP and its members?</p> <p>2 A Yes.</p> <p>3 MR. GODLSTEIN: I'm sorry, Steve. Before</p> <p>4 you go on, I want to move his microphone up a little</p> <p>5 because he's folding his arms and he may be</p> <p>6 impairing the record.</p> <p>7 THE WITNESS: I'll keep it down.</p> <p>8 MR. GOLDSTEIN: I want you to be able to</p> <p>9 fold your arms if you want to.</p> <p>10 I'm sorry.</p> <p>11 BY MR. OLSON:</p> <p>12 Q Over approximately what -- strike that.</p> <p>13 Approximately when did you start</p> <p>14 contributing reports and analyses to UEP's members?</p> <p>15 MR. TAKENOUCHI: Object to form,</p> <p>16 contributing reports and analyses.</p> <p>17 MR. GODLSTEIN: Go ahead.</p> <p>18 THE WITNESS: I'll try to answer that</p> <p>19 question.</p> <p>20 Since the formation of UAP. I don't know</p> <p>21 what year that was, but since the beginning.</p> <p>22 BY MR. OLSON:</p> <p>23 Q And approximately when did you stop doing</p> <p>24 that?</p> <p>25 A Theoretically, I'm still doing it today.</p>	<p style="text-align: right;">28</p> <p>1 with their chairperson. And, of course, I've always</p> <p>2 had the relationship with their members on a</p> <p>3 one-on-one basis in my regular duties.</p> <p>4 BY MR. OLSON:</p> <p>5 Q But was there a period when you were</p> <p>6 retained to provide industry statistics and economic</p> <p>7 reports for UEP?</p> <p>8 A Yes.</p> <p>9 Q When did that cease?</p> <p>10 A Cease or start?</p> <p>11 Q Cease.</p> <p>12 A Cease. I assume it's the same date we just</p> <p>13 talked about, 2009 when I terminated.</p> <p>14 Q And when did that start?</p> <p>15 A I was afraid you'd ask me that.</p> <p>16 Q Approximately.</p> <p>17 A I would say it might have been a ten-year</p> <p>18 relationship.</p> <p>19 Q Now, what type of reports did you prepare</p> <p>20 for UEP and its members?</p> <p>21 A Prior to my working with UEP, in fact since</p> <p>22 the beginning of 1958, I've always written economic</p> <p>23 reports for the industry. And UEP asked that I</p> <p>24 continue this work with them and with their members.</p> <p>25 And the Iowa State Egg Center now is continuing that</p>
<p style="text-align: right;">27</p> <p>1 Q And why do you say that?</p> <p>2 A Because I'm still working 20 hours a week.</p> <p>3 Q And what do you do in those 20 hours a</p> <p>4 week?</p> <p>5 A We write, edit and publish industry-wide</p> <p>6 newsletters.</p> <p>7 Q You say "We," who is we?</p> <p>8 A The Iowa State Egg Industry Center. I'm on</p> <p>9 the board of directors.</p> <p>10 Q And are those newsletters sent to UEP?</p> <p>11 A Sent to 1,000 egg producers in the United</p> <p>12 States and their allied industries.</p> <p>13 Q How long were you affiliated with UEP,</p> <p>14 specifically?</p> <p>15 MR. TAKENOUCHI: Objection to form,</p> <p>16 "affiliated," the term is vague.</p> <p>17 MR. OLSON: I'll ask when I want a</p> <p>18 clarification; otherwise you can just object to</p> <p>19 form.</p> <p>20 MR. TAKENOUCHI: Okay. You asked me for</p> <p>21 clarification before.</p> <p>22 MR. OLSON: No -- right. I didn't ask this</p> <p>23 time or the last time.</p> <p>24 THE WITNESS: As I say, I began working in</p> <p>25 cooperation at the beginning of their organization</p>	<p style="text-align: right;">29</p> <p>1 work also.</p> <p>2 Q And so you referred to economic reports</p> <p>3 that UEP asked you to provide. How would you</p> <p>4 describe those economic reports?</p> <p>5 A Well, we had three regular newsletters on</p> <p>6 economics -- pardon me, four. And they would be on</p> <p>7 anything to do with the egg industry, primarily the</p> <p>8 table egg industry.</p> <p>9 And then when we worked out a relationship</p> <p>10 with UEP. We started what we called a memo,</p> <p>11 m-e-m-o, along the same lines, but everything was</p> <p>12 different or from a different approach.</p> <p>13 Q What do you mean from a different approach?</p> <p>14 A Just looking at it from the right side and</p> <p>15 the left side and from an economic standpoint, from</p> <p>16 a sociological standpoint, from local, regional,</p> <p>17 international views. Any one subject, you don't</p> <p>18 want to put it all on one piece of paper. So you</p> <p>19 might have a series of papers on a given part of one</p> <p>20 of the discussions.</p> <p>21 Q Now, of the reports that you prepared for</p> <p>22 UEP and its members, did you prepare reports that</p> <p>23 projected the size of the nation's table egg laying</p> <p>24 flock?</p> <p>25 A Yes, we do that. We've done that since the</p>

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<p style="text-align: right;">30</p> <p>1 beginning every month.</p> <p>2 Q Did you prepare analyses of the</p> <p>3 relationship between flock size and income in the</p> <p>4 egg industry?</p> <p>5 A Yes.</p> <p>6 MR. TAKENOUCHI: Objection to form.</p> <p>7 BY MR. OLSON:</p> <p>8 Q And what was the purpose of those types of</p> <p>9 reports and analyses?</p> <p>10 A Well, they are all aimed at maintaining a</p> <p>11 healthy industry. Healthy is usually interpreted as</p> <p>12 being economically sound. And you're working with a</p> <p>13 mass audience as opposed to individuals.</p> <p>14 Individual consulting without a fee is</p> <p>15 available at all times for any of these discussions,</p> <p>16 but as we feel -- as I feel the needs of the</p> <p>17 industry, along with any given line, I will tend to</p> <p>18 emphasize that for a time period.</p> <p>19 Q And how did analyses of the relationship --</p> <p>20 (Interruption in the proceedings.)</p> <p>21 MR. OLSON: Who joined? Who joined the</p> <p>22 deposition? Did someone join?</p> <p>23 Q All right. How did the analyses that you</p> <p>24 prepared of the relationship between flock size and</p> <p>25 income relate to maintaining a healthy industry?</p>	<p style="text-align: right;">32</p> <p>1 Q Now, would it be fair to say that one focus</p> <p>2 of your work was providing sound data that UEP could</p> <p>3 use to help persuade its members to manage egg</p> <p>4 supply?</p> <p>5 MR. TAKENOUCHI: Objection to form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. OLSON:</p> <p>8 Q And based on your years of experience being</p> <p>9 affiliated with UEP, would it be fair to say that</p> <p>10 one of the things that UEP did was to try to</p> <p>11 persuade its members to manage egg supply?</p> <p>12 MR. TAKENOUCHI: Objection to form,</p> <p>13 "affiliated."</p> <p>14 THE WITNESS: Would you state the question</p> <p>15 again, please?</p> <p>16 BY MR. OLSON:</p> <p>17 Q Sure. Based on your years of experience</p> <p>18 being affiliated with UEP, would it be fair to say</p> <p>19 that one of the things that UEP did was to try to</p> <p>20 persuade its members to manage egg supply?</p> <p>21 A Yes.</p> <p>22 MR. TAKENOUCHI: Same objection.</p> <p>23 BY MR. OLSON:</p> <p>24 Q And did you think that was an important</p> <p>25 thing to do?</p>
<p style="text-align: right;">31</p> <p>1 A Well, first of all, we have to be concerned</p> <p>2 about costs, and then we have to be concerned about</p> <p>3 income.</p> <p>4 The greatest income is from eggs in this</p> <p>5 particular case; that's almost 100 percent of it.</p> <p>6 At times it might have been as low as 90 percent,</p> <p>7 but it is normally -- today it is about a hundred.</p> <p>8 Costs are predominantly feed. And so we</p> <p>9 place a lot of emphasis on feed costs and feed</p> <p>10 consumption, factors affecting feed consumption and</p> <p>11 so on. And then the other costs make up the balance</p> <p>12 of -- and so between the two, costs and income, we</p> <p>13 have a measure of the well-being of the industry.</p> <p>14 Q And what was the purpose of projecting the</p> <p>15 size of the nation's table egg laying flock and</p> <p>16 looking at flock size?</p> <p>17 MR. TAKENOUCHI: Objection; form.</p> <p>18 THE WITNESS: Well -- excuse me.</p> <p>19 BY MR. OLSON:</p> <p>20 Q You can answer the question.</p> <p>21 A I can answer it?</p> <p>22 There are many, many reasons why prices</p> <p>23 change. And the main one that's recognized is the</p> <p>24 size of the flock. More eggs, less price; less</p> <p>25 eggs, more price.</p>	<p style="text-align: right;">33</p> <p>1 A Yes.</p> <p>2 Q And did UEP, from time to time, ask for</p> <p>3 your assistance in doing that?</p> <p>4 MR. TAKENOUCHI: Objection to form.</p> <p>5 THE WITNESS: I'd say yes and no.</p> <p>6 BY MR. OLSON:</p> <p>7 Q Did UEP, from time to time, ask for you to</p> <p>8 prepare reports or analyses that would help it</p> <p>9 persuade its members to manage egg supply?</p> <p>10 MR. TAKENOUCHI: Objection to form.</p> <p>11 THE WITNESS: I'd have to say yes and no</p> <p>12 again.</p> <p>13 BY MR. OLSON:</p> <p>14 Q And what's the yes part?</p> <p>15 A The yes part is that everyone associated</p> <p>16 with the egg industry recognizes the relationship</p> <p>17 between volume of production, bird members and</p> <p>18 price. And it's -- the relationships are fairly</p> <p>19 well established.</p> <p>20 Anything that I would say -- that we have</p> <p>21 too many chickens, that we don't have enough</p> <p>22 chickens -- in a hundred examples, not just in so</p> <p>23 many words, but in a hundred different examples,</p> <p>24 applications, that that would be one of my roles,</p> <p>25 uh-huh.</p>

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<p style="text-align: right;">34</p> <p>1 Q And one of your roles was to provide data 2 that would help the industry balance the supply of 3 eggs with the demand for eggs, right? 4 A That's right. We provided a one-source 5 place to go for statistics. The statistics didn't 6 start with me, but they were focused by me on the 7 problem. 8 Q And were there times that UEP or its 9 leaders, like Gene Gregory, for example, would ask 10 you to develop plans for the industry at times when 11 there was an oversupply of eggs in the market? 12 MR. TAKENOUCHI: Objection to form. 13 THE WITNESS: Yes. 14 BY MR. OLSON: 15 Q And were there times when you were invited 16 to give presentations to the UEP board of directors 17 regarding ideas for how to balance supply of eggs 18 with demand? 19 A Yes. 20 Q And were there times when you were invited 21 to USEM meetings? And are you familiar with what 22 USEM is? 23 A I've never been invited to their meetings. 24 Q Are you sure? 25 A Are you talking about the egg</p>	<p style="text-align: right;">36</p> <p>1 Q Now, the first one you mentioned is cage 2 density. How can cage density be used in a flock 3 reduction program? 4 MR. TAKENOUCHI: Objection to form. We are 5 just talking about -- 6 MR. OLSON: Please no speaking objections. 7 You objected to form. Thank you. 8 MR. TAKENOUCHI: I'm trying to 9 understand -- 10 MR. OLSON: You objected to form, and 11 that's fine. 12 THE WITNESS: Cage density to most people 13 means how much space do you give your chickens, and 14 that also is related to how many birds you put in 15 the cage. It's not necessarily the number of birds 16 you have in the nation, that's not cage density. 17 That's hen population. 18 Cage density, I first started my research 19 with the extension service in about 1963 with cage 20 density experiments. At that time most cages held 21 one bird. The industry readily found that that was 22 not the way to go, it was not the economic way to go 23 and so they went to two. 24 What does that do? That increases the 25 population by a hundred percent. And then they went</p>
<p style="text-align: right;">35</p> <p>1 marketing association -- producers -- 2 Q Sorry. United States Egg Marketers. 3 A I may have been to their meeting once, 4 but -- I think I'll have to say I may have been. 5 There are so many different organizations, and -- 6 associated with the egg industry, including Urner 7 Barry and so on. 8 But I seem to recall that I might have had 9 a meeting with the marketing association, but 10 certainly nothing routinely. 11 Q But do you recall being asked to provide 12 data and analyses to help support USEM with the 13 flock reduction program? 14 A Yes and no. I guess you'll have to explain 15 what the flock reduction program is. 16 Q Well, to your knowledge, what is a flock 17 reduction program? 18 A Well, it could be cage density. That's 19 probably the most visible. It could be when we 20 worked with them for a national marketing order to 21 license production and I wrote several papers, so 22 it's a difficult one to answer with one word. 23 Q It could include a number of different 24 things, is that your point? 25 A Yes, I guess.</p>	<p style="text-align: right;">37</p> <p>1 to three, and so on, and so on. 2 So cage density is one of the easiest 3 things to correct and to demonstrate that this is 4 too much or too little. 5 BY MR. OLSON: 6 Q And how does cage density relate to flock 7 reduction, specifically? 8 A The same thing. The -- if we're interested 9 in reducing the flock size because the profitability 10 of the industry is absent, that's one of the first 11 things that anybody can do. And it's also not only 12 useful to the industry as a whole, but it is 13 extremely useful to the individual who is going 14 bankrupt. 15 There's always the individual -- 16 individual's needs as opposed to the industry's 17 needs. 18 Q Now, are these points about cage density 19 that you were just making ones that you communicated 20 to UEP and its members? 21 A All the time -- 22 MR. TAKENOUCHI: Objection to form. 23 THE WITNESS: All the time, yes. 24 BY MR. OLSON: 25 Q And it would be fair to say that -- that</p>

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<p style="text-align: right;">38</p> <p>1 you recognize, based on your work for the industry,</p> <p>2 that one way UEP members could manage egg supply was</p> <p>3 by adopting guidelines relating to cage density?</p> <p>4 MR. TAKENOUCHI: Objection to form.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. OLSON:</p> <p>7 Q And one way of adopting those guidelines</p> <p>8 would be to adopt welfare guidelines?</p> <p>9 MR. TAKENOUCHI: Objection to form.</p> <p>10 THE WITNESS: Welfare guidelines is a broad</p> <p>11 series of management tools that does not just</p> <p>12 include cage density, but cage density is one of the</p> <p>13 issues that can contribute to this.</p> <p>14 So -- go ahead.</p> <p>15 BY MR. OLSON:</p> <p>16 Q And one of the things that welfare</p> <p>17 guidelines could be used for is to manage supply?</p> <p>18 MR. TAKENOUCHI: Objection to form.</p> <p>19 THE WITNESS: That is an outcome of</p> <p>20 managing cage density, would be to manage the flock</p> <p>21 size, but it's also a way of managing the flock's</p> <p>22 health and welfare and other issues that are in</p> <p>23 demand by the industry, by the people associated</p> <p>24 with the industry.</p> <p>25 BY MR. OLSON:</p>	<p style="text-align: right;">40</p> <p>1 improve margins for the individual producers.</p> <p>2 BY MR. OLSON:</p> <p>3 Q But you recognize that molting also</p> <p>4 affected output, right?</p> <p>5 A Everything affects output.</p> <p>6 Q Molting does?</p> <p>7 A Go ahead with the rest of them, but</p> <p>8 everything affects output.</p> <p>9 Q Including molting, right?</p> <p>10 A Yes, up and down.</p> <p>11 Q But, in general, your work indicated to you</p> <p>12 that using molting affected output down?</p> <p>13 MR. TAKENOUCHI: Objection to form.</p> <p>14 BY MR. OLSON:</p> <p>15 Q Right?</p> <p>16 A One of the outcomes of the replacement</p> <p>17 program which includes molting, is average egg</p> <p>18 production will be less.</p> <p>19 Q And were there times when UEP, as part of</p> <p>20 its efforts to address supply issues, would</p> <p>21 recommend early molting programs to its members?</p> <p>22 MR. TAKENOUCHI: Objection; lacks</p> <p>23 foundation.</p> <p>24 BY MR. OLSON:</p> <p>25 Q To your knowledge?</p>
<p style="text-align: right;">39</p> <p>1 Q Now, you -- we were talking about factors</p> <p>2 that impact national egg supply and we've been</p> <p>3 talking about cage density.</p> <p>4 I take it, as a result of your work in the</p> <p>5 industry, you identified other factors that would</p> <p>6 affect national egg supply; is that right?</p> <p>7 A Yes.</p> <p>8 Q And let me identify a factor, and you let</p> <p>9 us know if it's one you identified as playing a</p> <p>10 major role --</p> <p>11 A Yes.</p> <p>12 Q -- in affecting national egg production.</p> <p>13 The degree of flock recycling, is that a</p> <p>14 factor?</p> <p>15 A Yes.</p> <p>16 Q And that refers to the molting process,</p> <p>17 correct?</p> <p>18 A Recycling means molting, yes.</p> <p>19 Q And as part of your work, you recognized</p> <p>20 that molting could be a way of impacting national</p> <p>21 egg production?</p> <p>22 MR. TAKENOUCHI: Objection to form.</p> <p>23 THE WITNESS: That would not be the goal of</p> <p>24 anything I've ever done on molting. The goal of</p> <p>25 using molting is to reduce costs and, therefore,</p>	<p style="text-align: right;">41</p> <p>1 A Yes.</p> <p>2 Q And what is the purpose of recommending an</p> <p>3 early molting program in order -- how does that</p> <p>4 relate to managing supply?</p> <p>5 MR. TAKENOUCHI: Objection; foundation.</p> <p>6 THE WITNESS: When you molt chickens, that</p> <p>7 particular flock goes to zero production. And if</p> <p>8 the country is overproducing, then a number of</p> <p>9 farmers going to zero production over given a period</p> <p>10 of time is beneficial to the industry because it</p> <p>11 reduces egg members.</p> <p>12 BY MR. OLSON:</p> <p>13 Q Is there an additional way that molting can</p> <p>14 be used to manage supply, other than that period</p> <p>15 when there is zero production?</p> <p>16 A The average rate of lay would be about 10</p> <p>17 percent less year in, year out.</p> <p>18 And if we have 10 percent too many</p> <p>19 chickens, that's one way of remedying that problem.</p> <p>20 Q So would it be fair to say that in times of</p> <p>21 low margins in the egg industry, molting can make</p> <p>22 economic sense?</p> <p>23 A Absolutely, yes, yes.</p> <p>24 Q Thank you. But in terms of high profits,</p> <p>25 high margins, molting makes less sense?</p>

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<p>1 A Well, the answer is yes.</p> <p>2 Q Now, as far as other factors that affect</p> <p>3 the size of national egg production, how about the</p> <p>4 age of hens?</p> <p>5 A Yes.</p> <p>6 Q How does that affect the size of national</p> <p>7 egg production?</p> <p>8 A Well, the older the chickens, the fewer the</p> <p>9 eggs.</p> <p>10 And so if you do molt, you're going to</p> <p>11 increase their average age by 30 or 40 weeks, which</p> <p>12 is considerable. Or if you let your flocks go</p> <p>13 without molting, you're going to keep them for a</p> <p>14 longer period without molting, and so the same thing</p> <p>15 is going to happen.</p> <p>16 Q And how about the use of exports, can that</p> <p>17 have a large impact on national egg production?</p> <p>18 MR. TAKENOUCHI: Objection to form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. OLSON:</p> <p>21 Q And how does the use of exports affect the</p> <p>22 size of national egg production?</p> <p>23 A Well, the current problem in Mexico is a</p> <p>24 prime example. They are short of eggs because of a</p> <p>25 disease problem. They go to their neighbor, the</p>	<p>1 industry, you understood that the egg industry could</p> <p>2 make more money with fewer birds, right?</p> <p>3 A Yes.</p> <p>4 Q That's something you mentioned before</p> <p>5 today, right?</p> <p>6 A Yes.</p> <p>7 Q And that's a fact that you would stress to</p> <p>8 UEP and its members?</p> <p>9 A Yes.</p> <p>10 Q Now, as part of your work for the egg</p> <p>11 industry, did you also come to understand that</p> <p>12 increasing floor space allowances could be difficult</p> <p>13 for an individual producer on its own to justify?</p> <p>14 A Yes.</p> <p>15 Q Because if a producer just increases floor</p> <p>16 space allowances on its own, that might reduce its</p> <p>17 profits, right?</p> <p>18 A Reduces volume of production, yes.</p> <p>19 Q But did you also recognize that increasing</p> <p>20 floor space allowances could be justified for a</p> <p>21 producer if it knew that a significant number of</p> <p>22 other producers were also going to do it?</p> <p>23 MR. TAKENOUCHI: Objection to form,</p> <p>24 speculation.</p> <p>25 THE WITNESS: First of all, if you take the</p>
43	45
<p>1 United States, and buy eggs. And when you take eggs</p> <p>2 off the market, your market goes up.</p> <p>3 Q And, to your knowledge, did UEP, or</p> <p>4 affiliated groups with UEP, engage in exports for</p> <p>5 that reason?</p> <p>6 MR. TAKENOUCHI: Objection to form,</p> <p>7 foundation.</p> <p>8 THE WITNESS: I can't tell you the motive</p> <p>9 of UEP or their organizations to do that.</p> <p>10 Obviously, there are eggs that don't move on the</p> <p>11 local market and, therefore, new markets have to be</p> <p>12 sought.</p> <p>13 BY MR. OLSON:</p> <p>14 Q And, really, I'm just trying to ask a</p> <p>15 question about your level of knowledge. How</p> <p>16 knowledgeable were you about UEP or USEM's export</p> <p>17 practices?</p> <p>18 MR. TAKENOUCHI: Objection to form.</p> <p>19 MR. OLSON: What's the objection?</p> <p>20 MR. TAKENOUCHI: Compound.</p> <p>21 THE WITNESS: Just what I read in the trade</p> <p>22 press.</p> <p>23 BY MR. OLSON:</p> <p>24 Q Fair enough.</p> <p>25 Now, based on your work in the egg</p>	<p>1 range of modifying your density from low to high,</p> <p>2 you can go too far on either end, too few or too</p> <p>3 many.</p> <p>4 My concern in evaluating this is what does</p> <p>5 it return for dollar invested. And four birds in a</p> <p>6 three-bird cage is too many, one or two birds is too</p> <p>7 few. So the answer is yes and no.</p> <p>8 To the individual, the industry is mainly</p> <p>9 interested in modifying the total population, and</p> <p>10 they have to have individual people to cooperate and</p> <p>11 do that.</p> <p>12 BY MR. OLSON:</p> <p>13 Q But I just want to focus on this problem of</p> <p>14 increasing floor space allowances across the</p> <p>15 industry.</p> <p>16 A Sure.</p> <p>17 Q It might be good for everyone in the</p> <p>18 industry, as long as you don't go too far, right?</p> <p>19 MR. TAKENOUCHI: Objection to form.</p> <p>20 BY MR. OLSON:</p> <p>21 Q Is that the point you were making?</p> <p>22 A Each farmer has to judge for his own sake.</p> <p>23 You would only benefit three eggs per bird</p> <p>24 if you reduce your density. I might be involved in</p> <p>25 20 eggs. Your answer is different than my answer.</p>

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<p style="text-align: right;">46</p> <p>1 The nation has to look at the averages.</p> <p>2 And if someone is going to recommend, such as myself</p> <p>3 or UEP or anyone else that's in the advisory</p> <p>4 business, you have to be talking to the average</p> <p>5 company. And the average is not necessarily for you</p> <p>6 or for him. But, using a model, computer model,</p> <p>7 what have you, you can say that, well, on the</p> <p>8 average, it doesn't pay to put the fourth bird in</p> <p>9 the cage.</p> <p>10 Q Okay. So let's say that recommendation is</p> <p>11 made. Now, looking at the individual -- an</p> <p>12 individual producer, if they are worried that they</p> <p>13 are going to do it but they are going to be the only</p> <p>14 one to do it, that may be hard to justify because</p> <p>15 they're reducing their volume but not getting a</p> <p>16 larger benefit, fair?</p> <p>17 A Uh-huh.</p> <p>18 MR. TAKENOUCHI: Objection to form.</p> <p>19 MR. OLSON: You have to say yes.</p> <p>20 MR. GODLSTEIN: Say yes.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. OLSON:</p> <p>23 Q But that same producer might be more</p> <p>24 willing to follow that recommendation if it knew</p> <p>25 that a large percentage of the industry was also</p>	<p style="text-align: right;">48</p> <p>1 BY MR. OLSON:</p> <p>2 Q Is that fair?</p> <p>3 A It would be, quote unquote, more fair if</p> <p>4 everyone followed exactly the same rules. But it's</p> <p>5 not economically fair to impose a rule on you when</p> <p>6 you don't need that rule or to me when I do.</p> <p>7 Q Maybe my use of the word "fair" was</p> <p>8 confusing the question. I'm sorry.</p> <p>9 A Okay.</p> <p>10 Q I'm asking if I'm describing the problem</p> <p>11 fairly. And the problem facing UEP is that you want</p> <p>12 to increase floor space allowance to manage egg</p> <p>13 supply. It's not in an individual producer's</p> <p>14 self-interest to do that on its own, but it might be</p> <p>15 if producers were doing it jointly?</p> <p>16 MR. TAKENOUCHI: Objection; lacks</p> <p>17 foundation, speculation.</p> <p>18 THE WITNESS: I think you have a very</p> <p>19 difficult question there, because in all degrees of</p> <p>20 fairness or current experiences, cage density, you</p> <p>21 only get three eggs, I get 20, that's why we analyze</p> <p>22 each company by itself.</p> <p>23 And then once you have all that knowledge</p> <p>24 of all these companies, you never have a hundred</p> <p>25 percent, of course, as you know, but you say, well,</p>
<p style="text-align: right;">47</p> <p>1 going to do it, fair?</p> <p>2 MR. TAKENOUCHI: Objection to form,</p> <p>3 speculation.</p> <p>4 THE WITNESS: They are all competitors to</p> <p>5 each other, and they don't want a different set of</p> <p>6 rules for me than for you.</p> <p>7 BY MR. OLSON:</p> <p>8 Q So the answer is that is fair, one might be</p> <p>9 more willing to do it if you knew that others were</p> <p>10 going to do it as well?</p> <p>11 MR. TAKENOUCHI: Objection to form.</p> <p>12 THE WITNESS: I think that would -- yes,</p> <p>13 the answer is yes.</p> <p>14 BY MR. OLSON:</p> <p>15 Q And that's one of the problems that faced</p> <p>16 UEP in working with its members to manage egg</p> <p>17 supply, right?</p> <p>18 A Yes.</p> <p>19 Q In other words, if an individual producer</p> <p>20 is doing it on its own, it might be against its</p> <p>21 self-interest to increase floor space allowance, but</p> <p>22 would be in its interest if it was done jointly</p> <p>23 across the industry?</p> <p>24 MR. TAKENOUCHI: Objection; misstates prior</p> <p>25 testimony.</p>	<p style="text-align: right;">49</p> <p>1 this is the rule of thumb or this is what most</p> <p>2 people are doing and they are going down the wrong</p> <p>3 path. For their personal success or failure, if</p> <p>4 they are going down the wrong track, if you use the</p> <p>5 model.</p> <p>6 But this person over here, that's an</p> <p>7 exceedingly good manager or this person is a</p> <p>8 terrible manager, they have totally different</p> <p>9 reactions. These people over here will go broke --</p> <p>10 bankrupt. These people over here may make a very</p> <p>11 good living. So it's a matter of audience. And</p> <p>12 when I use the word "average," there really is no</p> <p>13 such thing. But you do have variable audience out</p> <p>14 there that these things we are talking about affect</p> <p>15 everybody differently.</p> <p>16 BY MR. OLSON:</p> <p>17 Q Did you have ideas for how UEP could help</p> <p>18 egg producers manage egg supply jointly?</p> <p>19 MR. TAKENOUCHI: Objection to form.</p> <p>20 THE WITNESS: Clarify your question.</p> <p>21 BY MR. OLSON:</p> <p>22 Q Did you have ideas for how UEP could help</p> <p>23 egg producers work together to manage egg supply?</p> <p>24 MR. TAKENOUCHI: Same objection.</p> <p>25 THE WITNESS: Well, I've used the</p>

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<p style="text-align: right;">50</p> <p>1 expression persuasion as opposed to regulation. 2 There are examples of regulation where you and I 3 both must do the same thing. Europe is a good 4 example of that going on right now. Cages are 5 disallowed in countries that still wish to run 6 cages. 7 So persuasion without penalty is a pretty 8 good tool. If you can do it by friendship and 9 relationship, if you can do it by example, but 10 you're trying to persuade people to look at their 11 books, look at their records, look at it from this 12 viewpoint and this viewpoint. Are you considering 13 taxes, are you considering labor costs, and so on. 14 So persuasion and education is a very important part 15 of this. 16 BY MR. OLSON: 17 Q Do you recall making a recommendation that 18 UEP take a stronger stand on the issue of space 19 allowances? 20 A Sure, yes. 21 Q And what was the reason for that 22 recommendation? 23 MR. TAKENOUCHI: Objection to form. 24 THE WITNESS: Because I know that if we 25 reduce the number of birds in the United States,</p>	<p style="text-align: right;">52</p> <p>1 A That's true. 2 Q And that's the topic you spoke on over the 3 course of your 55 years, correct? 4 A Yes. 5 Q So we touched on a lot of these issues, but 6 I just wanted to go over a couple of them. 7 Let's look at slide 8 on the second page. 8 The slide is entitled, "Production Change vs Egg 9 Income"? 10 A Yes. 11 Q And there is a little graph here, and the 12 reference to a 1:4.5 ratio. 13 Can you just describe what information is 14 conveyed on slide 8? 15 A This is titled, "Production Change vs Egg 16 Income," and then it says, "(1:4.15 ratio)." 17 It says that for each 1 percent change in 18 production, that the egg price will change in the 19 opposite direction 4 1/2 percent. Percent, not 20 cents. Percent, not cents. And then the graph 21 depicts that relationship. 22 Q So, in other words -- okay. Fair enough. 23 Let's move on. 24 Let's look at slide 14 titled "Factors" -- 25 A 14?</p>
<p style="text-align: right;">51</p> <p>1 that the egg producers in the United States will 2 have a more profitable relationship, set of results. 3 I've looked at costs and income and profits 4 for 55 years, and I've done studies every year for 5 55 years, so I feel like I have a feel for the 6 general health of this industry. And, therefore, I 7 think I'm entitled to use my experience to make 8 recommendations. 9 (Deposition Exhibit 2 was marked for 10 identification by the court reporter 11 and is attached hereto.) 12 BY MR. OLSON: 13 Q Let me hand you what we've marked Bell 2. 14 A Sure. Yeah, I've seen this. 15 Q Okay. Just give me a moment here. 16 And Bell 2 is Bates-stamped, for the 17 record, BELL-D-00031284 through -31295. 18 Mr. Bell, can you identify this document 19 for us; in other words, just generally describe what 20 it is? 21 A This is, obviously, a speech and these are, 22 obviously, slides, and it was done in 1992, and I 23 don't know where. 24 Q And the title of this speech was "Managing 25 the Nation's Laying Flock"?</p>	<p style="text-align: right;">53</p> <p>1 Q Yes. It is titled, "Factors Which Have 2 Largest Impact on National Egg Production." 3 A Uh-huh. 4 Q And listed are "Cage Density," "Flock 5 Recycling," "Age" and "Exports." 6 Do you see that? 7 A That's where you got your questions from. 8 Q And we discussed those factors already, 9 right? 10 A Yes. 11 Q Under "Exports" you wrote, "'Release valve' 12 for surplus production." 13 Can you explain what that means? 14 A Release valve is when pressure gets a 15 little high -- a little too high for your cooking or 16 whatever it is you're running a plant of some kind. 17 Release valve allows some of the volume to escape, 18 and I guess that's why I used that term. 19 Q And was that something that was practiced 20 in the U.S. egg industry, to your knowledge? 21 MR. TAKENOUCHI: Objection to form. 22 THE WITNESS: The percentage of eggs that 23 have gone overseas, which includes Mexico, it's 24 usually the Asian market, and we have product eggs, 25 as well as shellings.</p>

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<p style="text-align: right;">54</p> <p>1 Historically, it's been about 2 percent.</p> <p>2 That's not much, but if you apply that 2 percent to</p> <p>3 the formula that we just looked at, it becomes 9,</p> <p>4 doesn't it? 4 1/2 times 2.</p> <p>5 BY MR. OLSON:</p> <p>6 Q Right.</p> <p>7 A That 2 was the total. If you change the 2</p> <p>8 to the 4 and increase your exports, that's what</p> <p>9 we're talking about.</p> <p>10 Now, nobody says our eggs have to stay</p> <p>11 within our boundaries, because that's a market too,</p> <p>12 t-o-o. And, therefore, individual companies will</p> <p>13 choose that market, especially if the price is</p> <p>14 depressed.</p> <p>15 Q All right. Let's look at slide 37. It is</p> <p>16 titled "Supply Management Systems."</p> <p>17 A 37? Okay.</p> <p>18 Q Are you there?</p> <p>19 A Uh-huh -- yes.</p> <p>20 Q And I think we've touched on some of these</p> <p>21 points as well. Here you lay out in bullet form</p> <p>22 four different supply management systems, right?</p> <p>23 A Yes.</p> <p>24 Q The first one is "Quota schemes," and you</p> <p>25 say that they've usually failed; is that right?</p>	<p style="text-align: right;">56</p> <p>1 specific -- well, they are in a specific order. But</p> <p>2 I'm not giving more weight to one versus the other,</p> <p>3 I guess, is what I'm trying to say.</p> <p>4 The welfare question has certain natural</p> <p>5 outcomes, many outcomes, positive and negative. And</p> <p>6 so I don't want you to get the opinion that that's</p> <p>7 the only reason why we have welfare.</p> <p>8 BY MR. OLSON:</p> <p>9 Q We're going to get into those.</p> <p>10 A Okay.</p> <p>11 Q But I just wanted to -- as far as the</p> <p>12 information being conveyed on this slide 37 --</p> <p>13 A Basically, yes.</p> <p>14 Q -- in the early 1990s was one possible</p> <p>15 supply management system using welfare guidelines?</p> <p>16 A That's an example, yes.</p> <p>17 Q And that's something you recognized at the</p> <p>18 time, right?</p> <p>19 A Yes.</p> <p>20 Q And is that something that you discussed</p> <p>21 with the folks at UEP, like Mr. Gregory or Al Pope?</p> <p>22 MR. TAKENOUCHI: Objection; form.</p> <p>23 THE WITNESS: This was written in 1992,</p> <p>24 right? When did Mr. Gregory come on board?</p> <p>25 I'm not supposed to ask questions.</p>
<p style="text-align: right;">55</p> <p>1 A Yes.</p> <p>2 Q The second one is "Voluntary -</p> <p>3 Self-Interest." The third is "Guidelines," it says</p> <p>4 "(e.g. welfare)"?</p> <p>5 A Yes.</p> <p>6 Q And the last one is, "Persuasion based upon</p> <p>7 sound data," and it says, "e.g. UEP"?</p> <p>8 A Yes.</p> <p>9 Q The point you're making, particularly the</p> <p>10 last bullet, is that as of this time, early 1990,</p> <p>11 UEP, UEP supply management system, was a</p> <p>12 persuasion-based approach using data?</p> <p>13 MR. TAKENOUCHI: Objection to form,</p> <p>14 foundation.</p> <p>15 THE WITNESS: Not exclusively. I think</p> <p>16 they were involved -- this would also be involved in</p> <p>17 voluntary -- I think they would also be involved in</p> <p>18 guidelines.</p> <p>19 BY MR. OLSON:</p> <p>20 Q Okay. And here is a place where you're</p> <p>21 pointing out that welfare guidelines can be used as</p> <p>22 a supply management system, correct?</p> <p>23 MR. TAKENOUCHI: Objection to form.</p> <p>24 THE WITNESS: I'm not giving you a -- I'm</p> <p>25 not weighting these or they are not in any</p>	<p style="text-align: right;">57</p> <p>1 BY MR. OLSON:</p> <p>2 Q You know, that's a fair one, and I should</p> <p>3 know. Maybe we'll try to get the answer to that for</p> <p>4 you. But I'm referring to at any time. Speak at</p> <p>5 any time.</p> <p>6 A Ask the question again.</p> <p>7 Q Okay. This idea of using welfare</p> <p>8 guidelines as part of a supply management system, is</p> <p>9 that one you recall discussing at any time with</p> <p>10 Al Pope or Gene Gregory?</p> <p>11 MR. TAKENOUCHI: Objection; form.</p> <p>12 THE WITNESS: Well, the fact that it's here</p> <p>13 in this document and then they receive this document</p> <p>14 and they may send this document to their membership</p> <p>15 and they have a board of directors. So I would</p> <p>16 expect this particular slide, as you selected this</p> <p>17 particular slide, to be discussed.</p> <p>18 BY MR. OLSON:</p> <p>19 Q And is it possible that on other occasions</p> <p>20 you would have discussed that topic with UEP</p> <p>21 officers or its board of directors?</p> <p>22 MR. TAKENOUCHI: Objection; form,</p> <p>23 speculation.</p> <p>24 THE WITNESS: This slide?</p> <p>25 BY MR. OLSON:</p>

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<p style="text-align: right;">58</p> <p>1 Q No, just that concept.</p> <p>2 A That concept?</p> <p>3 MR. TAKENOUCHI: Objection to form.</p> <p>4 THE WITNESS: Well, I know what you're</p> <p>5 driving at, but --</p> <p>6 BY MR. OLSON:</p> <p>7 Q Well, I'm actually just wondering, and it's</p> <p>8 fair whenever I ask a question to say "I just don't</p> <p>9 recall." I asked you a question if you recall</p> <p>10 discussing it. You pointed to a slide --</p> <p>11 A I don't have a photographic memory.</p> <p>12 MR. GODLSTEIN: Don, you're doing a great</p> <p>13 job, but try to remember what Steig said to you</p> <p>14 about not talking over him when he's talking, and</p> <p>15 he'll do the same for you, so we don't drive our</p> <p>16 court reporter crazy. Okay?</p> <p>17 THE WITNESS: Thank you.</p> <p>18 In the conversations with UEP officials</p> <p>19 and/or members, board members, or just plain old</p> <p>20 members, I'm sure we spelled out that if you do this</p> <p>21 from a welfare standpoint, that it's going to have</p> <p>22 effects on price.</p> <p>23 And if you allow 67 square inches -- are</p> <p>24 you familiar with that number?</p> <p>25 BY MR. OLSON:</p>	<p style="text-align: right;">60</p> <p>1 production was to use a long-term cage space</p> <p>2 program?</p> <p>3 A That's one of the easiest ways, easiest to</p> <p>4 demonstrate.</p> <p>5 Q Just to pause there, do you recall</p> <p>6 approximately when you reached the conclusion that</p> <p>7 that would be one of the easiest ways to accomplish</p> <p>8 that goal?</p> <p>9 A Well, the question of optimum cage space,</p> <p>10 one of the outcomes is it is going to change the</p> <p>11 volume of eggs. And we've already discussed the</p> <p>12 volume of egg relationship to egg price.</p> <p>13 So the very first experiment I did in the</p> <p>14 early '60s that showed a dramatic difference in egg</p> <p>15 numbers, but from the same cage, that's the start of</p> <p>16 a 55-year recommendation, and it still exists today.</p> <p>17 Q And was there a time when you concluded</p> <p>18 that in the United States an industry-wide program</p> <p>19 involving cage space guidelines was the best way to</p> <p>20 manage U.S. egg supply?</p> <p>21 MR. TAKENOUCHI: Object to form.</p> <p>22 THE WITNESS: It would result -- it would</p> <p>23 get results the fastest, it would be the easiest to</p> <p>24 apply, but everyone wouldn't be in agreement with</p> <p>25 it.</p>
<p style="text-align: right;">59</p> <p>1 Q Yes.</p> <p>2 A And Don Bell says you should give them 72,</p> <p>3 you know there's -- or the other direction, that you</p> <p>4 can affect it up or down, the results, because</p> <p>5 Don Bell is not going to say that 72 is the number,</p> <p>6 nor is the welfare committee or anything like that.</p> <p>7 So I hope, in my discussions with UEP, that</p> <p>8 the principles will be on the table and that we will</p> <p>9 give an equal fairness to too many chickens or too</p> <p>10 few chickens, because they are both involved.</p> <p>11 Q And would it be fair to say that you</p> <p>12 recognized at some point that the primary way to</p> <p>13 reduce nationwide chick hatch was through a</p> <p>14 long-term cage space program?</p> <p>15 MR. TAKENOUCHI: Objection to form.</p> <p>16 THE WITNESS: Cage space program, is that</p> <p>17 what you said?</p> <p>18 Hatches hasn't even come into the</p> <p>19 discussion yet, so you brought it in there.</p> <p>20 BY MR. OLSON:</p> <p>21 Q Okay. Sorry. We're just talking about</p> <p>22 nationwide egg production.</p> <p>23 Would it be fair to say that, based on your</p> <p>24 work, at a certain point you recognized that the</p> <p>25 primary way the industry could manage nationwide egg</p>	<p style="text-align: right;">61</p> <p>1 BY MR. OLSON:</p> <p>2 Q And were these concepts about that type of</p> <p>3 approach being fast and easy to apply ones that you</p> <p>4 discussed with UEP and its officials from time to</p> <p>5 time?</p> <p>6 A Yes, uh-huh.</p> <p>7 Q Now, we've talked about animal welfare</p> <p>8 briefly.</p> <p>9 MR. GODLSTEIN: Steig, before we go on,</p> <p>10 we've been going about an hour now. Would this be a</p> <p>11 convenient time to take a ten-minute break?</p> <p>12 MR. OLSON: Sure, if the witness would like</p> <p>13 that, that would be fine.</p> <p>14 MR. GODLSTEIN: Thanks.</p> <p>15 THE VIDEOGRAPHER: We are off the record.</p> <p>16 The time is 11:00 a.m.</p> <p>17 (Recess.)</p> <p>18 THE VIDEOGRAPHER: We are back on the</p> <p>19 record. The time is 11:15 a.m.</p> <p>20 MR. GODLSTEIN: So let's go for another</p> <p>21 hour or so, and then at that point I'd like to step</p> <p>22 out with Mr. Bell and see where we are and whether</p> <p>23 we can keep going a little longer or what, and then</p> <p>24 we'll make a decision at that point. Okay?</p> <p>25 MR. OLSON: Absolutely.</p>

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<p style="text-align: right;">62</p> <p>1 Q Mr. Bell, if you don't even make an hour</p> <p>2 and want to break before then, let us know.</p> <p>3 A Keep at it.</p> <p>4 Q Okay. Now, before the break, this concept</p> <p>5 of chick hatch came up. Now, is one way to reduce</p> <p>6 egg supply focusing on reducing chick hatch?</p> <p>7 A Yes.</p> <p>8 Q And what is -- generally speaking, what is</p> <p>9 chick hatch reduction?</p> <p>10 A Chick hatch is adult chickens six months</p> <p>11 pre, prior to the adult chicken. So it takes six</p> <p>12 months to grow. So if you have an indication that</p> <p>13 you have an increase in chick hatch, this is also an</p> <p>14 indication you're going to have more adult chickens</p> <p>15 six months later.</p> <p>16 And so it was given a lot of attention in</p> <p>17 earlier years, the direction of chick hatch, but</p> <p>18 there are so many factors -- if a person is going</p> <p>19 broke, he doesn't buy as many chicks, and that's the</p> <p>20 same as the total volume, it's the whole industry.</p> <p>21 If the industry is in trouble, they won't buy as</p> <p>22 many chicks. They don't buy as many chicks, and</p> <p>23 that's what gives us cycles. The cycle in the</p> <p>24 industry is about five years, and that's why we talk</p> <p>25 about five-year averages, because that's the period</p>	<p style="text-align: right;">64</p> <p>1 factors affecting egg price, all of these have to be</p> <p>2 considered collectively.</p> <p>3 Q And when you refer to that list, you're</p> <p>4 referring to the list in Bell Exhibit 2, the slide</p> <p>5 you prepared in the early '90s?</p> <p>6 A Which one was it?</p> <p>7 Q Exhibit 2, slide 37?</p> <p>8 A 37. That and other documents that you</p> <p>9 folks all have. You came to my house and took all</p> <p>10 my documents, remember?</p> <p>11 Q We didn't take all your documents.</p> <p>12 A Oh, yes, you did, you did. You searched</p> <p>13 under my carpet.</p> <p>14 Q We'll hold that to one side.</p> <p>15 A Okay.</p> <p>16 Q Would it be fair to say that one way that</p> <p>17 was discussed to provide a long-term solution to the</p> <p>18 supply issue was to have a long-term cage space</p> <p>19 program?</p> <p>20 MR. TAKENOUCHI: Objection to form.</p> <p>21 THE WITNESS: I'm sure it was discussed by</p> <p>22 some people. I don't -- I'm trying to think if I</p> <p>23 did it. You want to know if I did it?</p> <p>24 BY MR. OLSON:</p> <p>25 Q Yes, if you were involved in the</p>
<p style="text-align: right;">63</p> <p>1 of time when you have to consider all these issues.</p> <p>2 Q And was this a challenge in the industry,</p> <p>3 how to try to address the cyclical nature of chick</p> <p>4 hatch and egg production?</p> <p>5 A It is a cyclical fact of life, and you</p> <p>6 can -- I've got charts I've used in my speeches</p> <p>7 where you can see a profitable industry, too many</p> <p>8 chicks, too many adults, too many eggs, an</p> <p>9 unprofitable industry and then back around.</p> <p>10 And so this has got to be realized, because</p> <p>11 it is a cyclic industry. You can't just look at one</p> <p>12 year at a time and say it means anything.</p> <p>13 Q Now, did you give some thought as part of</p> <p>14 your work for the egg industry on how to overcome</p> <p>15 the cyclical nature and have a long-term solution to</p> <p>16 the supply issue?</p> <p>17 A Yes, we've made a proposal with UEP and</p> <p>18 presented at one of their meetings about quotas. A</p> <p>19 quota is a regulatory concept.</p> <p>20 Q And --</p> <p>21 A Go ahead.</p> <p>22 Q And aside from quotas, did you have other</p> <p>23 ideas about how to address the long-term solution</p> <p>24 for the supply issue?</p> <p>25 A The entire list that you have copies of</p>	<p style="text-align: right;">65</p> <p>1 discussions.</p> <p>2 A Well, obviously, I am concerned about</p> <p>3 managing the nation's laying flock from the</p> <p>4 standpoint of the health of the industry. And if</p> <p>5 that's one -- we listed four of them over here, or</p> <p>6 whatever it is, there is a longer list someplace</p> <p>7 else that you've got. Many, many, many factors.</p> <p>8 Anything that the farmer does to reduce</p> <p>9 cost or increase income, bird numbers are involved.</p> <p>10 Q All right. Let's talk about the --</p> <p>11 actually, another issue came up before the break.</p> <p>12 You were talking about cage sizes, and you mentioned</p> <p>13 67 inches versus 72 inches.</p> <p>14 A Right.</p> <p>15 Q Now, you were a member of the Scientific</p> <p>16 Advisory Committee, correct?</p> <p>17 A Yes.</p> <p>18 Q Why didn't the Scientific Advisory</p> <p>19 Committee just insist on a minimum of 72 inches for</p> <p>20 every hen?</p> <p>21 MR. TAKENOUCHI: Objection; leading.</p> <p>22 THE WITNESS: The optimum numbers battered</p> <p>23 around the industry worldwide and the United States</p> <p>24 varies from 150 inches to 50 inches. So the</p> <p>25 committee -- now we're talking about the industry</p>

17 (Pages 62 to 65)

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<p style="text-align: right;">66</p> <p>1 advisory committee, right?</p> <p>2 BY MR. OLSON:</p> <p>3 Q We'll call it the Scientific Advisory</p> <p>4 Committee --</p> <p>5 A Scientific, that's fine.</p> <p>6 Several people were assigned this question,</p> <p>7 to take a look at the research.</p> <p>8 Well, the research is just enormous on this</p> <p>9 question. And all the answers aren't the same.</p> <p>10 Q But no one is really -- there's no</p> <p>11 reputable research saying 50 inches is optimal for</p> <p>12 the welfare of hens, is there?</p> <p>13 MR. TAKENOUCHI: Objection to form.</p> <p>14 THE WITNESS: I said economically optimal.</p> <p>15 BY MR. OLSON:</p> <p>16 Q Oh, economically optimal? Understood.</p> <p>17 A Most of the research went on pre humane</p> <p>18 society, if you understand what I'm talking about.</p> <p>19 All the research that went on before that had to do</p> <p>20 with production efficiencies, economics, how many</p> <p>21 eggs, you know, mortality, all those things.</p> <p>22 The human society insisted that you needed</p> <p>23 to bring in welfare issues, such as frustration,</p> <p>24 peck order, a totally different ball game than I was</p> <p>25 involved with.</p>	<p style="text-align: right;">68</p> <p>1 A What do I recall?</p> <p>2 Q I mean, do you recall the conversation, do</p> <p>3 you recall how it happened, do you recall anything</p> <p>4 about it?</p> <p>5 A No. It's just a long-term relationship</p> <p>6 with these people, all the way to the farmer, that</p> <p>7 they endorsed me to be on the committee and they</p> <p>8 wished me to be on the committee because of my</p> <p>9 experience.</p> <p>10 Q Your experience with economic issues?</p> <p>11 A All issues, all the welfare issues, except</p> <p>12 for these frustration issues, yeah.</p> <p>13 Q That's what I want to understand.</p> <p>14 A I mean, density, molting, beak trimming,</p> <p>15 housing, all those issues.</p> <p>16 Q If we talk about density, for example --</p> <p>17 A Sure.</p> <p>18 Q -- did you have experience on how density</p> <p>19 would affect the welfare of the chicken?</p> <p>20 MR. TAKENOUCHI: Objection to form,</p> <p>21 definition of "welfare."</p> <p>22 THE WITNESS: It is what you include in the</p> <p>23 welfare.</p> <p>24 As far as frustration is concerned, no. As</p> <p>25 far as egg numbers are concerned, yes. As far as</p>
<p style="text-align: right;">67</p> <p>1 We had measurable things. I don't know</p> <p>2 whether you're frustrated right this moment or not,</p> <p>3 you see, we're supposed to do that with the chicken.</p> <p>4 I can't tell humans if they are frustrated or if</p> <p>5 you're high on the peck order or low on the peck</p> <p>6 order. But there is about 20 different behavioral</p> <p>7 characteristics that the scientists who work in that</p> <p>8 area are concerned about.</p> <p>9 Well, on the advisory committee we had one</p> <p>10 or two that had that background. I didn't have that</p> <p>11 background. I didn't -- I was only interested in</p> <p>12 egg numbers, egg size, mortality and what it all</p> <p>13 meant economically.</p> <p>14 Q And is that why you were chosen for the</p> <p>15 Scientific Advisory Committee, to your knowledge?</p> <p>16 MR. TAKENOUCHI: Objection; foundation.</p> <p>17 THE WITNESS: I was asked to be on the</p> <p>18 committee by UEP.</p> <p>19 BY MR. OLSON:</p> <p>20 Q By who at UEP?</p> <p>21 A Good question. Gene or AI, I'm not sure</p> <p>22 which. The rest of the committee was appointed by</p> <p>23 the appointed chair.</p> <p>24 Q And what do you recall about being asked by</p> <p>25 UEP to be on the committee?</p>	<p style="text-align: right;">69</p> <p>1 mortality -- mortality is a welfare issue, and</p> <p>2 mortality, yes.</p> <p>3 BY MR. OLSON:</p> <p>4 Q Okay. So your experience with those types</p> <p>5 of issues that you --</p> <p>6 A Measurable issues.</p> <p>7 Q Measurable and economic issues?</p> <p>8 A Yes. Together, yes.</p> <p>9 Q All right. Now, wouldn't it be fair to say</p> <p>10 that from the standpoint of the hen, a minimum of 72</p> <p>11 inches is required to let a hen do any of the</p> <p>12 natural behaviors that a hen does, like stretch its</p> <p>13 wings?</p> <p>14 MR. TAKENOUCHI: Objection; leading. It</p> <p>15 doesn't distinguish between different types of hens.</p> <p>16 THE WITNESS: That question when you added</p> <p>17 stretch their wings is a matter of physical size and</p> <p>18 movability around the cage. Part of the rules say</p> <p>19 they can't even touch each other.</p> <p>20 BY MR. OLSON:</p> <p>21 Q Which rule?</p> <p>22 A Part of the Proposition 2.</p> <p>23 Q Okay. But I'm just talking --</p> <p>24 A I know you're not, but that's a welfare --</p> <p>25 Q Isn't the scientific consensus that for a</p>

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<p>1 hen just to stretch out its wings it needs a minimum 2 of 72 inches? No? 3 A No. 4 Q Okay. Now, over what period -- do you 5 recall when you started working on the Scientific 6 Advisory Committee? 7 A Day 1. 8 Q So this is sometime in 1999? 9 A You have the record. 10 Q I believe we have February 1999. Does that 11 sound about right? 12 A (No audible response.) 13 MR. OLSON: I'll introduce that. 14 THE WITNESS: When you are retired, years 15 go very fast. 16 MR. OLSON: That's fair. 17 (Deposition Exhibit 3 was marked for 18 identification by the court reporter 19 and is attached hereto.) 20 BY MR. OLSON: 21 Q Let me hand you what we marked Bell 3. 22 This was previously Gregory 6. 23 A Thank you. 24 Q It is a United Voices publication. 25 Mr. Bell, did you receive United Voices</p>	<p>1 question. 2 THE WITNESS: Sorry. 3 BY MR. OLSON: 4 Q So just to be clear, the members listed on 5 the right-hand side of this document, to your 6 knowledge, were the members of the Scientific 7 Advisory Committee as of February 1999, correct? 8 A They were not the only members. 9 Q Were there other members? 10 A I don't remember when Bill Chase became a 11 member. 12 Q Okay. 13 A But Bill Chase was one of the early 14 members, and he was veterinarian from a private 15 company. 16 Q But as of early 1999, at least these people 17 identified -- 18 A At least, yeah. 19 Q -- were members of the committee, correct? 20 A Right. 21 Q Now, when you served -- you can put that 22 down. 23 When did you stop serving on the Scientific 24 Advisory Committee? 25 A Isn't that part of the termination?</p>
71	73
<p>1 publications? 2 A Yes. 3 Q All right. And this publication is dated 4 February 22nd, 1999. 5 Do you see that? 6 A Yes. 7 Q And it refers to -- 8 A The first meetings. 9 Q -- the first meeting, the February 12th and 10 13th? 11 A Yes. 12 Q Does that refresh your recollection about 13 when you started? 14 A Yes. 15 Q Now, this has a list of the members of the 16 Scientific Advisory Committee on the right-hand 17 side -- 18 A Yes. 19 Q -- do you see that? 20 A Yes. 21 Q Is that an accurate list, to your 22 knowledge, of who the members -- 23 A At that time, yes. 24 MR. GODLSTEIN: Just slow down a little bit 25 because you're jumping before he gets to finish his</p>	<p>1 Q Was that when you finally retired July 1, 2 2009? 3 A Did it say anything about the committee? 4 Q Yes, it does. It says it will end your 5 role. 6 A Yes, as a member of the Scientific Advisory 7 Committee, so that will be the date. 8 Q So you served on that committee over 9 approximately early 1999 through July 2009, correct? 10 A Sounds like ten years, right. 11 Q About ten years. 12 During the period that you served on the 13 Scientific Advisory Committee, were you paid any 14 form of compensation by UEP? 15 A I believe all I received was expenses to go 16 to the meetings, because I had no funds otherwise. 17 Q Mr. Bell, isn't it the case that you were 18 paid by UEP -- 19 A Oh, I was on retainer, of course. 20 Q That's what I want to talk about. 21 A You didn't ask it that way. 22 Q Oh, sorry. 23 So during this period -- during most of the 24 period you were on the Scientific Advisory 25 Committee, you were on retainer by UEP?</p>

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<p>1 A Yes.</p> <p>2 Q And as part of that retainer, you were paid</p> <p>3 approximately \$15,000 a year, correct?</p> <p>4 A Approximately, yes.</p> <p>5 Q Okay. And you received compensation to</p> <p>6 attend Scientific Advisory Committee meetings as</p> <p>7 well?</p> <p>8 MR. TAKENOUCHI: Objection to form,</p> <p>9 "compensation."</p> <p>10 THE WITNESS: Expenses were the only</p> <p>11 additional to my retainer fee. My retainer fee paid</p> <p>12 for about two days of my time a month, and I gave</p> <p>13 them a lot more than two days.</p> <p>14 BY MR. OLSON:</p> <p>15 Q So when you say "expenses," you're</p> <p>16 referring to things like travel expenses?</p> <p>17 A To get to Chicago, or wherever it was.</p> <p>18 Q As part of your work for UEP during that</p> <p>19 period, you were -- did you also go on other trips</p> <p>20 unrelated to the Scientific Advisory Committee?</p> <p>21 A Other trips?</p> <p>22 MR. TAKENOUCHI: Objection; misstates prior</p> <p>23 testimony.</p> <p>24 THE WITNESS: About 400 of them.</p> <p>25 BY MR. OLSON:</p>	<p>1 new. For example, we started out with adult hens,</p> <p>2 we then moved to growing pullets, which are younger</p> <p>3 chickens, and then we went to alternative housing.</p> <p>4 Alternative housing wasn't part of the original</p> <p>5 mandate.</p> <p>6 So there was four or five categories in the</p> <p>7 original mandate, and as we -- I don't know what</p> <p>8 they are talking about today, but the committee</p> <p>9 still exists and they are addressing current issues,</p> <p>10 I guess.</p> <p>11 BY MR. OLSON:</p> <p>12 Q Now, let's talk about, particularly, the</p> <p>13 early years of the committee. How often would the</p> <p>14 committee meet, generally?</p> <p>15 A Oh, I don't think more than twice a year,</p> <p>16 maybe.</p> <p>17 Q And would those be in-person meetings?</p> <p>18 A In person?</p> <p>19 Q Yes.</p> <p>20 A Always.</p> <p>21 Q And was there any -- were there any formal</p> <p>22 rules that you were aware of that governed how the</p> <p>23 meetings would take place?</p> <p>24 A No. Same kind of meeting as we have right</p> <p>25 here. We have a chairperson, and if somebody has</p>
75	77
<p>1 Q Okay. And UEP would compensate you for</p> <p>2 those --</p> <p>3 A No, no, no. The inviter would pay my</p> <p>4 expenses to go to other meetings. That's the</p> <p>5 question you asked.</p> <p>6 Q Okay. And from time to time UEP would</p> <p>7 invite you to attend meetings?</p> <p>8 A To attend the annual meeting and make a</p> <p>9 presentation.</p> <p>10 Q And you would be paid for that as well?</p> <p>11 A Just transportation, just the expenses.</p> <p>12 Q Okay. What do you recall about what you</p> <p>13 were told was the initial assignment of the</p> <p>14 Scientific Advisory Committee?</p> <p>15 A I suppose it has a lot to do with</p> <p>16 recommendations.</p> <p>17 Q And I don't want you to speculate at all.</p> <p>18 A Okay. Okay. All right.</p> <p>19 No, I don't remember it at all.</p> <p>20 Q Okay. Do you recall whether the mandate of</p> <p>21 that committee changed over time?</p> <p>22 A The mandate of the committee?</p> <p>23 MR. TAKENOUCHI: Objection to form.</p> <p>24 THE WITNESS: The mandate, yes, changed</p> <p>25 over time as we finished one section and added a</p>	<p>1 something to say, they raise their hand, I guess.</p> <p>2 Q So an open discussion?</p> <p>3 A An open discussion, right.</p> <p>4 Q Do you recall there being any procedure for</p> <p>5 taking notes of those discussions or minutes of the</p> <p>6 meetings?</p> <p>7 A We didn't have a stenographer, somebody --</p> <p>8 I think the chair would ask somebody to take some</p> <p>9 notes. Or each of us had an assignment in the first</p> <p>10 place, and you're supposed to bring copies of what</p> <p>11 you're -- of what your report is.</p> <p>12 If it is cage density, this person is</p> <p>13 supposed to bring a report on cage density or</p> <p>14 transportation or whatever it may be.</p> <p>15 But as far as word for word or anything,</p> <p>16 no.</p> <p>17 Q So if we wanted to look for a collection of</p> <p>18 minutes or notes of the meetings, do you have an</p> <p>19 idea of where we would look?</p> <p>20 A Well, I would assume UEP would have a file</p> <p>21 on us. I've got a partial file. I don't -- I can't</p> <p>22 store everything, but the chairperson probably has a</p> <p>23 file, that would be Jeff Armstrong. And UEP -- I</p> <p>24 mean, if they are doing their business, they would</p> <p>25 certainly have a file.</p>

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<p style="text-align: right;">78</p> <p>1 Q And a representative of UEP would always</p> <p>2 attend the meetings; is that right?</p> <p>3 MR. TAKENOUCHI: Objection; form.</p> <p>4 MR. OLSON: Strike that.</p> <p>5 Q Would a representative from UEP attend the</p> <p>6 meetings?</p> <p>7 MR. TAKENOUCHI: Objection to form.</p> <p>8 THE WITNESS: Most or all.</p> <p>9 BY MR. OLSON:</p> <p>10 Q Was that Gene Gregory?</p> <p>11 A Most or all.</p> <p>12 Q Did you have an understanding of why</p> <p>13 Mr. Gregory attended the Scientific Advisory</p> <p>14 Committee meetings?</p> <p>15 MR. TAKENOUCHI: Objection to form,</p> <p>16 foundation.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MR. OLSON:</p> <p>19 Q What was your understanding?</p> <p>20 A Wanted to see how we were progressing on a</p> <p>21 multitude of topics. Not just animal welfare, per</p> <p>22 se, not just the cage density, per se, but the total</p> <p>23 assignment of recommending the ways we handle our</p> <p>24 chickens.</p> <p>25 Q And would Mr. Gregory participate in the</p>	<p style="text-align: right;">80</p> <p>1 that wasn't -- that wasn't the big feature.</p> <p>2 Q Now, as part of your work on the Scientific</p> <p>3 Advisory Committee, did you believe it was important</p> <p>4 to be practical and realistic about the changes egg</p> <p>5 producers were asked to make?</p> <p>6 A I'm always that way, yes.</p> <p>7 Q And you were that way on the committee as</p> <p>8 well?</p> <p>9 A Yes.</p> <p>10 Q Did you believe, as part of your work on</p> <p>11 that committee, that it was important to consider</p> <p>12 how any changes would impact the profitability of</p> <p>13 the industry?</p> <p>14 A Absolutely, yes.</p> <p>15 Q And as part of your work on the committee,</p> <p>16 did you consider whether any changes would be</p> <p>17 acceptable to egg producers?</p> <p>18 A Well, obviously, I gave a different weight</p> <p>19 to each item. Some I thought would be readily</p> <p>20 acceptable by the industry, and they were, and</p> <p>21 others I thought -- well, an example, 72 inches, as</p> <p>22 you brought up, that was the opinion of one of our</p> <p>23 committee persons who did the report that that's as</p> <p>24 far as you have to go space wise.</p> <p>25 Q That that should be the minimum?</p>
<p style="text-align: right;">79</p> <p>1 discussion of -- that occurred at these meetings?</p> <p>2 A I think he took a pretty low key -- he</p> <p>3 didn't want to interfere with what we said, or he</p> <p>4 certainly wouldn't tell us what to say. We were a</p> <p>5 bunch of people who each had 20, 30, 40 years of</p> <p>6 experience doing research and communications and so</p> <p>7 on, and I think he took a back seat.</p> <p>8 Q But from time to time would he share his</p> <p>9 views?</p> <p>10 A He would do what?</p> <p>11 Q Share his views?</p> <p>12 A We knew his views because he had his</p> <p>13 newsletter that you showed me here, and we all</p> <p>14 received that. And he's interviewed or given</p> <p>15 speeches all over the place, so we have a pretty</p> <p>16 good idea what his views were.</p> <p>17 Q And would he share those views from time to</p> <p>18 time at the meetings?</p> <p>19 A With the committee?</p> <p>20 Q Yes.</p> <p>21 A He might report back to us that the UEP</p> <p>22 board of directors or their Animal Welfare Committee</p> <p>23 thinks you're being too hard on your recommendations</p> <p>24 or that you haven't discussed this part of the</p> <p>25 recommendation. Sure, he would have comments, but</p>	<p style="text-align: right;">81</p> <p>1 A That should be the maximum.</p> <p>2 Q The minimum?</p> <p>3 A Maximum.</p> <p>4 Q You didn't set the maximum height --</p> <p>5 A Oh, pardon me. That that number would be</p> <p>6 the -- let me just think what you're saying here.</p> <p>7 Q Let me try it.</p> <p>8 A Go ahead.</p> <p>9 Q I think you're saying it is phased in over</p> <p>10 time?</p> <p>11 A Yes, of course.</p> <p>12 Q There is an ultimate number. Someone</p> <p>13 thought that ultimate number should be 72?</p> <p>14 A I thought that our evidence showed that it</p> <p>15 could go higher than 72, and I didn't win that</p> <p>16 argument.</p> <p>17 So the person who wrote this paper reviewed</p> <p>18 all the literature she could find and decided that</p> <p>19 67 would be the number.</p> <p>20 Now I read in the press today that they</p> <p>21 want to give one chicken per acre.</p> <p>22 Q And who is this person you're referring to?</p> <p>23 A Right now?</p> <p>24 Q No, when you said that --</p> <p>25 A That would be the person who did the</p>

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<p style="text-align: right;">82</p> <p>1 report, Joy Mench.</p> <p>2 Q Just to be clear, you believe Ms. Mench</p> <p>3 said that --</p> <p>4 MR. GODLSTEIN: Doctor.</p> <p>5 BY MR. OLSON:</p> <p>6 Q Doctor, thank you.</p> <p>7 Dr. Mench said the number in the guidelines</p> <p>8 should not be 72, it should be 67?</p> <p>9 A 67. That's where she plateaus the response</p> <p>10 of the chickens. Nobody has worked with the 140 or</p> <p>11 150.</p> <p>12 Europeans, they have rules of that nature,</p> <p>13 but we are now talking about colony cages, and</p> <p>14 nobody has worked with, nobody has -- when I say</p> <p>15 they haven't worked with them, they haven't done</p> <p>16 statistically valid replicated studies with</p> <p>17 replications. Replications, meaning you repeat the</p> <p>18 results, repeat the results, and you are consistent</p> <p>19 with your answer.</p> <p>20 People who do anecdotal-type things, I</p> <p>21 don't pay attention to them. They are not science.</p> <p>22 Q So how was this decision where you were</p> <p>23 saying it should be 72 and she was saying it should</p> <p>24 be 67, how was the decision ultimately made?</p> <p>25 A It was finally made to use the 67 inch.</p>	<p style="text-align: right;">84</p> <p>1 A "When More Means Less." Okay.</p> <p>2 Q This is a document that is Bates-stamped</p> <p>3 KRGE00020640 through -43, and is Pope Exhibit 3.</p> <p>4 Are you familiar with this document,</p> <p>5 Mr. Bell?</p> <p>6 A Yes, I wrote it.</p> <p>7 Q This is an Egg Economics Update that you</p> <p>8 wrote in April of 1994?</p> <p>9 A Number 154, yes.</p> <p>10 Q And it is titled, "When More Means Less"?</p> <p>11 A Yes.</p> <p>12 Q And what is the point that you are making</p> <p>13 here?</p> <p>14 A When we have more chickens, the industry</p> <p>15 makes less money. And it is all spelled out in the</p> <p>16 graphics form. That's the justification that's</p> <p>17 stated.</p> <p>18 Q And the conclusion that you have here is</p> <p>19 "that for each 1 million hen change," that is in the</p> <p>20 number of hens, "prices change in the opposite</p> <p>21 direction by about 1 cent per dozen"?</p> <p>22 A I don't see where you're seeing that, but</p> <p>23 you should show me -- oh, here down at the bottom.</p> <p>24 That's exactly right.</p> <p>25 Q All right. You can put that aside.</p>
<p style="text-align: right;">83</p> <p>1 Q But what was the process of resolving that</p> <p>2 dispute?</p> <p>3 A I suppose she took -- I don't know if she</p> <p>4 took all the research she could pull together -- I</p> <p>5 need to differentiate here between my research and</p> <p>6 her research. Okay?</p> <p>7 But she pulled together all the published</p> <p>8 data that she could find and plotted against</p> <p>9 production, or whatever it was that she was looking.</p> <p>10 I'm sure she didn't look at it from an economic</p> <p>11 standpoint, because most scientists don't use the</p> <p>12 dollar sign. I do, and that's where my optimum</p> <p>13 might be different than her optimum or maximum, or</p> <p>14 whatever you want to say.</p> <p>15 So my work, by the way, is not published as</p> <p>16 often as her work, because she's used to publishing</p> <p>17 in all the journals. I publish in these newsletters</p> <p>18 that you have right there in front of you. That's</p> <p>19 where I publish my results.</p> <p>20 (Deposition Exhibit 4 was marked for</p> <p>21 identification by the court reporter</p> <p>22 and is attached hereto.)</p> <p>23 BY MR. OLSON:</p> <p>24 Q All right. Let me hand you what we've</p> <p>25 marked Bell 4.</p>	<p style="text-align: right;">85</p> <p>1 (Deposition Exhibit 5 was marked for</p> <p>2 identification by the court reporter</p> <p>3 and is attached hereto.)</p> <p>4 BY MR. OLSON:</p> <p>5 Q Let me hand you what we marked Bell 5.</p> <p>6 A Remember, that was written in 1994. Okay?</p> <p>7 Q But I take it the fundamental conclusion</p> <p>8 that you made in that point about more meaning less,</p> <p>9 that never changed, right?</p> <p>10 MR. TAKENOUCHI: Objection to form.</p> <p>11 THE WITNESS: It changes individual years,</p> <p>12 that's why I stress the need to look at five years</p> <p>13 at a time.</p> <p>14 So if you just take one year, that rule</p> <p>15 doesn't apply. You have to look at a series of</p> <p>16 years. And it's over time that that rule applies.</p> <p>17 Now, with our egg prices today versus what</p> <p>18 they were ten years ago, the answer is going to be</p> <p>19 different because we have dollar eggs now and we had</p> <p>20 50 cent eggs then.</p> <p>21 BY MR. OLSON:</p> <p>22 Q Is the specific number of the change going</p> <p>23 to be different, or is the conclusion about more</p> <p>24 meaning less going to be different?</p> <p>25 A I think more meaning less will hold true</p>

22 (Pages 82 to 85)

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<p style="text-align: right;">86</p> <p>1 forever, unless you have regulatory government 2 involvement, or something like that. But free 3 enterprise, I think, it holds forever. 4 What do we have here? 5 Q I've handed you what's been marked Bell 5. 6 It is Bates-stamped BELL-D-00032755. 7 And let me know when you've reviewed it. 8 A You want me to read it in detail? 9 Q Just skim it and let us know when you're 10 done. 11 MALE VOICE ON THE TELEPHONE: I'm sorry. 12 Can you repeat that number again, please? 13 MR. OLSON: BELL-D-00032755. 14 MALE VOICE ON THE TELEPHONE: Thank you. 15 THE WITNESS: Okay. I think I understand. 16 BY MR. OLSON: 17 Q Now, can you identify this as a letter you 18 sent to Al Pope on March 17, 1995? 19 A Yes, uh-huh. 20 Q And it refers to some UEP members bashing 21 molting. 22 Do you know what that's referring to? 23 A It's a controversial subject that everyone 24 went from no molting to practically everyone went to 25 molting.</p>	<p style="text-align: right;">88</p> <p>1 a much greater service by recommending an increase 2 in the use of molting rather than its elimination, 3 right? 4 MR. TAKENOUCHI: Objection to form. 5 THE WITNESS: That's what it says. 6 BY MR. OLSON: 7 Q And that was your view at the time? 8 A Do I still agree with it? 9 Q No. Was that your view at the time? 10 A That's what it says. That was my view, 11 yeah. 12 Q And molting -- at this time when you're 13 talking about molting you're talking about -- it's 14 called induced molting? 15 A That's the new term, yeah. 16 Q And that involves not giving a hen any feed 17 for a period of time? 18 A At that time, that was the way to do it. 19 And it's always been the best way, but it is also 20 more controversial. 21 Q And then you say, "another option would be 22 for UEP to take a stronger stand on the question of 23 space allowances." 24 Do you see that? 25 A Getting my longstanding recommendation,</p>
<p style="text-align: right;">87</p> <p>1 And during that transition period there is 2 going to be considerable disagreement. And talking 3 about -- let's see. 4 "Molting is not responsible for 5 overproduction any more than feed is," that's sort 6 of my concluding sentence there in the middle of the 7 discussion. 8 Q I take it during this transition period 9 some people thought molting was the cause of 10 overproduction? 11 A Some people would blame everything but 12 themselves, of course, yes. 13 Q And the point you make here is that, in 14 fact, molting -- 15 A Reduces costs. 16 Q -- reduces costs? 17 A But it lowers production as an outcome. 18 But what is the individual poultryman concerned 19 about? His profitability. And if he loses some 20 production, then he grits or bites his teeth, or 21 whatever you say, and says, well, that's just one of 22 the costs of molting. But the main thing is he 23 doesn't have to buy so many chickens. 24 Q And so for those reasons, you wrote to 25 Mr. Pope that you think UEP would do its membership</p>	<p style="text-align: right;">89</p> <p>1 again, to this person. 2 Q So your point is this is the type of 3 recommendation you made to Mr. Pope on multiple 4 occasions? 5 A I wouldn't just stop talking to him just 6 about molting if I had a chance to dig him on the 7 other. 8 Q And what did you mean by "UEP taking a 9 stronger stand on the question of space allowances"? 10 A This was written before the advisory 11 committee, right, 1997? 12 Q Right. 13 A That's the time limits. When it was 14 written was before any of these recommendations, 67 15 inches, any of that was brought forward. 16 So at that time people were going 48 17 inches, 45 inches. And, you know, that's way beyond 18 our analyses, economic or otherwise. And you could 19 lose 30, 40 eggs per bird. 20 Q What did you have in mind about UEP taking 21 a stronger stand on that question? 22 A In their persuasion capability with their 23 newsletters, wherever that one went, Industry Voices 24 it is called, to encourage people or persuade people 25 to take a harder look at your density question. If</p>

23 (Pages 86 to 89)

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<p>1 you look at the NAHMS study, N-A-H-M-S study, it was 2 a federal study of density across the United States, 3 and molting, by the way, and you see this wide range 4 of participation and, therefore, you have a lot of 5 opportunity for people going overboard or not doing 6 it enough and putting in too many chickens, putting 7 in too few chickens. 8 And it takes a national survey to 9 demonstrate that. And then if UEP is on the ball, 10 they'll say, well, this portion of our industry has, 11 obviously, gone too far. 12 Q So this was written in mid-1995. Would it 13 be fair to say that by the end of the 1990s UEP was 14 prepared to take your advice to take a stronger 15 stand on the question of space allowances? 16 MR. TAKENOUCHI: Objection to form, 17 misstates prior testimony. 18 THE WITNESS: Well, the fact that they -- 19 the fact that they put together an advisory 20 committee means they needed scientific evidence for 21 their recommendation. That's the way they looked at 22 it. 23 There was also extreme pressure from the 24 humane society that UEP do these -- make these 25 decisions. We've never satisfied the humane society</p>	<p>1 (Deposition Exhibit 6 was marked for 2 identification by the court reporter 3 and is attached hereto.) 4 BY MR. OLSON: 5 Q All right. Let me hand you what we marked 6 Bell 6. 7 So I'm really just focused on the first 8 page. I'll identify this as a document -- 9 A Which one is the first page? It says June 10 29th? 11 Q No, the July 1, 1999. 12 A That's the second one. 13 Q It is Bates-stamped BELL-D-00026787 through 14 -88. 15 A Okay. 16 Q Mr. Bell, can you identify this as a fax 17 correspondence you received from Gene Gregory on 18 July 1, 1999? 19 A Yes, that's one that I received, yes. 20 Q And it refers to an emergency meeting of 21 UEP's marketing committee. 22 Do you see that? 23 A Yes, I see that. 24 Q From time to time did you attend meetings 25 of UEP's marketing committee?</p>
91	93
<p>1 completely, but they are coming and at least talking 2 to each other. 3 BY MR. OLSON: 4 Q But the cage space guidelines that UEP 5 ultimately put into place -- 6 A Yes. 7 Q -- was an example of UEP taking a stronger 8 stand in this question of space allowances, fair? 9 MR. TAKENOUCHI: Objection to form, 10 misstates prior testimony. 11 THE WITNESS: They -- they took the 12 intermediate road and got the outside specialists to 13 come in and study these issues, otherwise it 14 wouldn't have been done. So I think UEP did a 15 tremendous thing to pull the committee together, let 16 them do their work, make their recommendations and 17 follow them as much as they could. 18 BY MR. OLSON: 19 Q And that was an example of UEP taking a 20 stronger stand on the question of cage space 21 allowances? 22 MR. TAKENOUCHI: Objection to form, asked 23 and answered, misstates prior testimony. 24 THE WITNESS: Yes, that was one of the 25 issues, yes.</p>	<p>1 A I can't recall. 2 Q Mr. Gregory asks, in connection with that 3 upcoming meeting, that you and Mr. Schrader prepare 4 something for UEP. 5 Do you see that? 6 A Yes. 7 Q And he describes it as a 12-month supply 8 plan to meet the market needs that provides a 9 reasonable return on investment. 10 Do you see that? 11 A Yes, uh-huh. 12 Q And how did you understand that request? 13 What was Mr. Gregory asking for, to your knowledge? 14 MR. TAKENOUCHI: Objection; foundation. 15 THE WITNESS: I have no recollection of 16 sending a report of this type to Gene Gregory, or 17 anyone else, unless there are components of it which 18 might have come out of some of our flock's modeling. 19 Our models tell us some of those answers, but I 20 don't find in my files anywhere this particular 21 response. 22 (Deposition Exhibit 7 was marked for 23 identification by the court reporter 24 and is attached hereto.) 25 BY MR. OLSON:</p>

24 (Pages 90 to 93)

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<p>1 Q All right. Well, let me hand you what we 2 marked Bell 7. 3 A Okay. 4 That's from me. 5 Q And you see it is dated the next day? 6 A That's a pretty good response, isn't it? 7 Q It's fast work. 8 So let me identify this for the record as 9 Bates stamp BELL007698 through -7709. 10 A These are right out of my regular 11 newsletter. 12 Q Okay. Well, first, can you just identify 13 this document as one that you sent to -- 14 A Yes. 15 Q -- Mr. Gregory on July 2nd, 1999, right? 16 A Yes. 17 Q And at the beginning you have some tables, 18 and those are the ones you're saying are right out 19 of your newsletter? 20 A Yes. 21 Q And if you keep paging through and get 22 through -- 23 A The last page? 24 Q -- the second-to-the-last page -- 25 A Right.</p>	<p>1 some profits, right? 2 A That's what it says, yeah. 3 Q Okay. If you look at the opening sentences 4 do you see where you say, "Correction in the size of 5 the nation's layer flock can be obtained by one of 6 several ways"? 7 A Yes. 8 Q And then under that you give four different 9 ways that the egg industry can correct the size of 10 its flock, right? 11 A I have to read that. 12 Q Please do. Let me know when you're done. 13 A Yeah, I read the four of them, yes. 14 Q So you're giving four ways of correcting 15 the size of the nation's -- four ideas? 16 A Right. 17 Q And what's going on here is the industry is 18 facing extremely low egg prices -- 19 A I assume so. 20 Q Well, in fact, you say that, right? 21 A Okay. I said it, that's fine. 22 Q "Extremely low egg prices," so your idea is 23 to change supply to correct that problem, right? 24 A Yes. 25 Q Just looking at number 2, it says, "Extra</p>
95	97
<p>1 Q -- it is titled, "Estimated Break-even 2 Beginning Hen Inventory for 1999" -- 3 A Yes. 4 Q -- "to 2000 for Break-even or Better 5 Situation." 6 Do you see that? 7 A Yes. 8 Q Have you reviewed this page? 9 A No, I haven't read it, but it's, obviously, 10 an editorial add-on to the statistics pages. 11 Q Okay. 12 A So he asked us for the statistics and the 13 plan, and I sent him what was immediately available, 14 and in one day that is pretty fast. And the rest of 15 it I sat down at probably 3:00 in the morning and 16 typed out my editorial about that. 17 Q Okay. 18 A And I haven't read it in years, so I don't 19 know -- 20 Q All right. Let's look at that page. 21 A Okay. Go ahead. 22 Q You're talking about how to achieve a 23 break-even or better situation? 24 A Uh-huh. 25 Q So that means either break even or make</p>	<p>1 birds must be removed from the nation's flock 2 permanently." 3 A Yes. 4 Q What were you referring to there? 5 A Surplus birds, over demand. 6 Q Do what with surplus birds? 7 A Get rid of them. 8 Q How do you do them? 9 A Kill them. 10 Q Mr. Bell, do you find any irony in the fact 11 that while you were a member of the Scientific 12 Advisory Committee you were recommending just 13 disposing of hens? 14 MR. TAKENOUCHI: Objection to form, 15 speculation. 16 THE WITNESS: No, I have never been able to 17 separate my brain into 20 percent and 80 percent, so 18 I'm me. And you get the whole thing. I'm either on 19 the committee or my day-by-day life. Since I'm paid 20 for two days of my time, I think I have 20 other 21 days that I can do whatever I want and think 22 whatever I want, write whatever I want, communicate. 23 Okay? So, no, I don't -- I think this is totally 24 within my realm. 25 BY MR. OLSON:</p>

25 (Pages 94 to 97)

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<p>1 Q Number 4 refers to an industry-wide policy</p> <p>2 of a minimum floor space allowance that would result</p> <p>3 in a more ideal national flock size?</p> <p>4 A Right.</p> <p>5 Q And that was a suggestion that you were</p> <p>6 making at this time for UEP?</p> <p>7 A Yeah.</p> <p>8 Q And, in fact, UEP ended up adopting that?</p> <p>9 A No. The 48 inches at that time was what 15</p> <p>10 to 20 percent of the birds were kept, at less than</p> <p>11 48 inches.</p> <p>12 So I suggested here that if 48 were adopted</p> <p>13 as the minimum space allowance, but you know what</p> <p>14 happened is it became 67 eventually.</p> <p>15 Q It became a higher number?</p> <p>16 A Yeah.</p> <p>17 Q Right.</p> <p>18 A And I've recommended early stages 72. 72</p> <p>19 square inches -- early stages of a recommendation,</p> <p>20 but those recommendations change.</p> <p>21 Q But putting the specific numbers aside, the</p> <p>22 gist of the recommendation here was to adopt a</p> <p>23 minimum floor space allowance to help the</p> <p>24 profitability of the industry?</p> <p>25 A Of course, yes.</p>	<p>1 major issue, was that we have too many chickens. So</p> <p>2 that's always going to be a question, that's always</p> <p>3 going to be a target.</p> <p>4 Q And in this one, again, you suggest that</p> <p>5 molting should be included as part of a national</p> <p>6 program, because that results in a lower level of</p> <p>7 egg production, right?</p> <p>8 A Yes, of course. Yes.</p> <p>9 Q Now, you talked about UEP making efforts to</p> <p>10 persuade its members --</p> <p>11 A Uh-huh.</p> <p>12 Q -- and identified the newsletters</p> <p>13 Mr. Gregory edited?</p> <p>14 A Uh-huh.</p> <p>15 Q Beyond the newsletters, to your knowledge,</p> <p>16 what other types of efforts did UEP make to persuade</p> <p>17 its members to manage egg supply?</p> <p>18 A Well, all of their programs are voluntary,</p> <p>19 so I'm not just sure where voluntary comes into</p> <p>20 persuasion.</p> <p>21 You know, whether you reduce your bird</p> <p>22 numbers, that was a voluntary decision on each</p> <p>23 person's part.</p> <p>24 Q Were you ever at UEP meetings where members</p> <p>25 were asked to sign commitment forms about following</p>
99	101
<p>1 Q And the suggestion, as it's laid out here,</p> <p>2 doesn't relate to animal welfare, right?</p> <p>3 A I wouldn't say that.</p> <p>4 Q Well, here there is no -- it's not being</p> <p>5 suggested --</p> <p>6 A The word isn't used in there, not being</p> <p>7 used in the text.</p> <p>8 Q The outcome of this suggestion is an</p> <p>9 economic one?</p> <p>10 A That's what causes the suggestion, is that</p> <p>11 the -- my experience with cage density shows that</p> <p>12 that's an extreme that we shouldn't recommend.</p> <p>13 Q Now, if you turn to the next page, this one</p> <p>14 is entitled, "A Twelve Month Supply Plan to Meet the</p> <p>15 Market Needs that Provides a Reasonable Return on</p> <p>16 Investment."</p> <p>17 Do you see that?</p> <p>18 A Yes.</p> <p>19 Q And that's specifically what Mr. Gregory</p> <p>20 asked you to prepare, correct?</p> <p>21 A That's part of the request, yes.</p> <p>22 Q Do you recall other times that Mr. Gregory,</p> <p>23 or others in UEP, requested you propose plans for</p> <p>24 managing egg output?</p> <p>25 A I would say frequently, because that was a</p>	<p>1 programs, to your knowledge, to your recollection?</p> <p>2 A I don't recall it personally. Of course,</p> <p>3 the progress of having people participate was</p> <p>4 reported in their newsletters, that we now have</p> <p>5 50 percent, we now have 70 percent, we now have</p> <p>6 90 percent. And those -- that's all anybody really</p> <p>7 needs to know.</p> <p>8 Q Why do you say that?</p> <p>9 A Because the rest of it is confidential</p> <p>10 company information. I don't want you to know that</p> <p>11 I'm participating or not participating.</p> <p>12 Q By name?</p> <p>13 A By name.</p> <p>14 Q But it's helpful to know that others are</p> <p>15 participating?</p> <p>16 A And that's where the 70 percent comes in,</p> <p>17 the 80 percent comes in, yeah.</p> <p>18 Q And why is it helpful for an individual</p> <p>19 producer to know that 70 percent or 80 percent of</p> <p>20 others are participating?</p> <p>21 MR. TAKENOUCHI: Objection; foundation,</p> <p>22 calls for speculation.</p> <p>23 THE WITNESS: You said that earlier. You</p> <p>24 want to know you're in step. You want to know this</p> <p>25 has a good chance of working. It starts out in</p>

26 (Pages 98 to 101)

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<p>1 somebody's mind, and they put it down on paper and</p> <p>2 they have a committee and eventually you get a --</p> <p>3 what do you call it? --</p> <p>4 BY MR. OLSON:</p> <p>5 Q Program?</p> <p>6 A No.</p> <p>7 Q Proposal?</p> <p>8 A Where everybody votes -- referendum.</p> <p>9 You eventually have a referendum and you</p> <p>10 may do a national referendum on some law, and laws</p> <p>11 have been thrown out added to a national referendum.</p> <p>12 But you don't want to put yourself out</p> <p>13 there without having some idea what the industry is</p> <p>14 doing as a whole. And I think that kind of a</p> <p>15 progress that we now have 50, we now have 70, that's</p> <p>16 enough to encourage people to say, well, I guess I</p> <p>17 should get on board too.</p> <p>18 Q Now, Mr. Gregory, you've worked --</p> <p>19 A I'm not Mr. Gregory.</p> <p>20 Q I apologize.</p> <p>21 Mr. Bell, you've worked in the egg industry</p> <p>22 for over 45 years?</p> <p>23 A Yes.</p> <p>24 Q And you've been affiliated with a variety</p> <p>25 of organization that do work for the egg industry?</p>	<p>1 that their barn burned down and they need some</p> <p>2 values for their chickens, they get a hold of me,</p> <p>3 because we've developed computer models to calculate</p> <p>4 these things. So I'm not the only person out there</p> <p>5 giving advice, as you know.</p> <p>6 (Deposition Exhibit 8 was marked for</p> <p>7 identification by the court reporter</p> <p>8 and is attached hereto.)</p> <p>9 BY MR. OLSON:</p> <p>10 Q Let me hand you what's been marked Bell</p> <p>11 8 -- actually, could you put that down for a moment.</p> <p>12 A Okay.</p> <p>13 Q Going back to Bell 7, these ideas that you</p> <p>14 gave to Mr. Gregory --</p> <p>15 A Okay.</p> <p>16 Q -- do you recall specifically the ideas</p> <p>17 about different ways to correct the size of the</p> <p>18 nation's layer flock? Do you recall discussing</p> <p>19 these with Mr. Gregory or others at UEP after you</p> <p>20 provided --</p> <p>21 A After I gave him this?</p> <p>22 Q Right.</p> <p>23 A Probably no.</p> <p>24 Q I'm just asking if you recall.</p> <p>25 A Well, I don't recall, no.</p>
103	105
<p>1 A Yes.</p> <p>2 MR. TAKENOUCHI: Objection to form.</p> <p>3 BY MR. OLSON:</p> <p>4 Q And you've worked for and done consulting</p> <p>5 work for a number of individual egg producers?</p> <p>6 A Yes.</p> <p>7 Q What number would you put that at?</p> <p>8 A Well, it started out with a county, 400</p> <p>9 producers with all of them. You go statewide with</p> <p>10 2,000 producers, I may work with 25 percent of them,</p> <p>11 because they are too far away from my office. Okay?</p> <p>12 When I began as a statewide specialist,</p> <p>13 then I started to branch out nationally, and now you</p> <p>14 start to do newsletters to everybody, no -- getting</p> <p>15 stuff out intentionally.</p> <p>16 And then when I get to do international,</p> <p>17 that involves organizations in other countries,</p> <p>18 so --</p> <p>19 Q Now, in addition to this national work --</p> <p>20 A Yes.</p> <p>21 Q -- did you continue to do some consulting</p> <p>22 for individual egg producers?</p> <p>23 A Yes.</p> <p>24 Q You've done that your whole career?</p> <p>25 A Whenever we get a request from somebody</p>	<p>1 Q All right. Now I've handed you what we've</p> <p>2 marked Gregory 8 -- Bell 8. Sorry.</p> <p>3 A Which one are we looking at? Molting?</p> <p>4 Q This is a UEP publication. Let me read the</p> <p>5 Bates number into the record.</p> <p>6 It is UE0064456 through -64459. It was</p> <p>7 Gregory Exhibit 11. That's why I have Gregory on</p> <p>8 the brain.</p> <p>9 All right. Let me just first ask if you</p> <p>10 can identify this as United Voices --</p> <p>11 A That's their regular every two weeks, I</p> <p>12 believe it is.</p> <p>13 Q And you received these generally, correct?</p> <p>14 A I keep about half of them, throw half of</p> <p>15 them away.</p> <p>16 Q All right. So if you look at beginning at</p> <p>17 the bottom right of the second page there is a part</p> <p>18 that said, "Roller Coaster Egg Price Quotes," and</p> <p>19 maybe if you could just skim that --</p> <p>20 A Okay.</p> <p>21 Q -- and skim page 3.</p> <p>22 A Who wrote it?</p> <p>23 Q Well, I believe this is Mr. Gregory.</p> <p>24 A Him. Okay. Boy, that's a terrible --</p> <p>25 there it is over there, market outlook.</p>

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<p style="text-align: right;">106</p> <p>1 Do I have to read the whole thing?</p> <p>2 Q If you just skim it.</p> <p>3 A Okay. Go ahead.</p> <p>4 Q Just the question is can you see that -- if</p> <p>5 you look at the top right of page 3, Mr. Gregory</p> <p>6 says, "You will also be asked if you would</p> <p>7 participate in a supply adjustment program."</p> <p>8 Do you see where it says that?</p> <p>9 A Yes, I see that.</p> <p>10 Q And then underneath do you see where</p> <p>11 Mr. Gregory has reproduced the suggestions you made</p> <p>12 about the corrections in the nation's flock size?</p> <p>13 A Yes.</p> <p>14 Q And it has those four including the</p> <p>15 industry-wide policy of a --</p> <p>16 A Is this shortly after those other letters?</p> <p>17 Q It is the next month.</p> <p>18 A The next month. Okay. Go ahead.</p> <p>19 Q And it includes this one about the minimum</p> <p>20 floor space allowance.</p> <p>21 A Uh-huh.</p> <p>22 Q Now, based on your knowledge of the</p> <p>23 industry, do you have an understanding of who would</p> <p>24 have received this type of document?</p> <p>25 MR. TAKENOUCHI: Objection; foundation.</p>	<p style="text-align: right;">108</p> <p>1 (Deposition Exhibit 9 was marked for</p> <p>2 identification by the court reporter</p> <p>3 and is attached hereto.)</p> <p>4 BY MR. OLSON:</p> <p>5 Q Let me hand you what we've marked Bell 9.</p> <p>6 Why don't you briefly review this, please.</p> <p>7 It is Bates-stamped BELL004041 through -42.</p> <p>8 Why don't we change tape now.</p> <p>9 THE VIDEOGRAPHER: Okay. Off the record.</p> <p>10 We are off the record. The time is 12:11 p.m. on</p> <p>11 August 20th, 2013. This is the end of video number</p> <p>12 1 of the continuing deposition of Mr. Donald Bell.</p> <p>13 (Recess.)</p> <p>14 THE VIDEOGRAPHER: We are on the record.</p> <p>15 The time is 12:16 p.m. on August 20th, 2013. This</p> <p>16 is the beginning of video number 2 of the deposition</p> <p>17 of Mr. Donald Bell.</p> <p>18 BY MR. OLSON:</p> <p>19 Q Mr. Bell, can you identify Exhibit 9 as an</p> <p>20 e-mail you wrote to what you were calling the Animal</p> <p>21 Welfare Committee on December 22nd, 1999?</p> <p>22 A Yes, I do.</p> <p>23 Q This is what we called today the Scientific</p> <p>24 Advisory Committee?</p> <p>25 A Yes.</p>
<p style="text-align: right;">107</p> <p>1 THE WITNESS: Are those four points the</p> <p>2 same exact points that I had in my letter?</p> <p>3 BY MR. OLSON:</p> <p>4 Q Right.</p> <p>5 A Okay. Part of my editorial?</p> <p>6 Q Right.</p> <p>7 A Okay.</p> <p>8 Q So this is just a background question. I</p> <p>9 mean, I take it you're aware that this United Voices</p> <p>10 was sent to UEP members and even others?</p> <p>11 A Well, it's sent to their entire membership</p> <p>12 list, to my knowledge, and I don't remember this</p> <p>13 being a response to my earlier letter. I don't read</p> <p>14 some of these things --</p> <p>15 Q So you don't recall seeing this at the</p> <p>16 time?</p> <p>17 A I don't recall, but it is right out of</p> <p>18 here, so it's okay.</p> <p>19 Q Just my question is: Does this refresh</p> <p>20 your recollection about any follow-up discussions</p> <p>21 you had with, really, anyone about these ideas?</p> <p>22 A This is the first I've known about it.</p> <p>23 Q Okay. Put that aside.</p> <p>24 A I'm sure it's been the subject of</p> <p>25 discussion, but I have no personal knowledge.</p>	<p style="text-align: right;">109</p> <p>1 MR. TAKENOUCHI: Objection; form.</p> <p>2 BY MR. OLSON:</p> <p>3 Q And what you discuss in this e-mail is the</p> <p>4 issue of cage space and how much cage space the</p> <p>5 committee should recommend generally, correct?</p> <p>6 A Yes.</p> <p>7 Q And you begin that discussion by saying,</p> <p>8 "Even though the subject is mainly one on selecting</p> <p>9 cage density based on current economic parameters,"</p> <p>10 and you go on.</p> <p>11 What were you referring to when you say,</p> <p>12 "based on current economic parameters"?</p> <p>13 A I think we probably were looking at</p> <p>14 averages, which vary from year to year, as opposed</p> <p>15 to a set of recommendations which would be over a</p> <p>16 long time period. So I think that's probably the</p> <p>17 emphasis there.</p> <p>18 Q But what economic parameters was the</p> <p>19 committee considering in this regard?</p> <p>20 A That -- the committee, at that time, in</p> <p>21 early sitting of the committee, would probably have</p> <p>22 placed most of its emphasis on egg production and</p> <p>23 mortality, and not until they were pressured into</p> <p>24 welfare-type issues much later by the humane</p> <p>25 society.</p>

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<p>1 So I would assume that "current economic 2 parameters" means the cost of production and the 3 price of eggs. 4 Q And one of the points you make here is that 5 in putting together the guidelines, the committee 6 needs to recognize that the egg producer is in 7 business to make a living, right? 8 A Yes. 9 Q And the Scientific Advisory Committee needs 10 to think about investments, cost, performance and 11 profits, and consider all those things in the 12 program that was going to be adopted, right? 13 A I'm not finding your keywords. 14 Q Oh, sorry. If you look at point 2. 15 A Point 2 down here. Okay. Yes, I see it. 16 Okay. 17 Q Point 2 and 3, what you're saying is when 18 the committee makes its recommendations, it needs to 19 consider that the egg producer is in business to 20 make a living and it needs to consider investments, 21 cost, performance and profits, right? 22 A I guess there is a word -- "consider" or 23 "consideration" might need to be explained, but 24 that's what I wrote, so that's what they got. 25 "Consider" means one of many things that you have to</p>	<p>1 are you in the third one? I can't see it in the 2 third paragraph. 3 Q Do you see the paragraph that says, "I am 4 primarily concerned"? 5 A Yes, okay. 6 Q The third sentence there. 7 A Oh, third sentence, you said "third 8 paragraph." 9 Q It is the third sentence in the third 10 paragraph. 11 A "I am also concerned." Okay. I was 12 reading down here, number 3. 13 Q Do you see that? 14 A That's saying that if you allowed an acre 15 of land for each chicken, that you wouldn't persuade 16 anybody to make any changes, because you've given 17 them way more than is required to satisfy the 18 welfare. 19 Q And, in fact, has this document refreshed 20 your recollection that at this time some on the 21 committee were thinking that 72 inches was the right 22 number? 23 A Yes. 72 inches is sort of a magic number. 24 Because of the size of cages that were present at 25 the time, you divide the total space of the cage by</p>
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<p>1 consider. 2 Q Okay. But these are things that needed to 3 be considered -- 4 A Exactly. 5 Q -- in your view? 6 And the committee did consider those 7 things? 8 MR. TAKENOUCHI: Objection; foundation. 9 THE WITNESS: Among the welfare issues that 10 we're primarily concerned with. The economics would 11 be more important to me, probably, because, as I 12 said, as a main reason people change is economic 13 reasons. That's why they change anything, and we 14 are talking about change here. 15 BY MR. OLSON: 16 Q And one of the points you make here in that 17 regard is you thought an unrealistically high 18 recommendation would fail to persuade anyone, right? 19 A Where did you read that now? 20 Q The third full paragraph. 21 A The third full paragraph. 22 Q Do you see where you say, "I'm also 23 concerned that an unrealistically high 24 recommendation would fail to persuade anyone"? 25 A You're in the second part of that? Where</p>	<p>1 1, 2, 3 or 4, or some other number, and 72 comes out 2 a good, usable number. 3 Q And you make the point on the second page 4 of this that you were against 72 square inches as a 5 number because it could not be economically 6 justified, right? 7 A Yes. And it also goes back to the question 8 of a standard for everybody, 72 inches for you might 9 be the right number, for me it is the wrong number. 10 So we have methods of analyzing the issue for you 11 and for me separately. 12 And if we want to use something for the 13 entire industry, well, then, we'll develop a set of 14 parameters, and we'll say that that's too much or 15 that's too little. 16 Q And you thought in coming up with the 17 parameters, the committee had to consider practical 18 issues and be realistic, right? 19 A Absolutely, yes. 20 Q And not recommend practices that weren't 21 economically justified? 22 A Especially in the next paragraph where it 23 says such as Economic Union of Europe to just copy 24 what they do verbatim and thinking that's going to 25 apply to the United States. That's a very important</p>

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<p style="text-align: right;">114</p> <p>1 statement.</p> <p>2 And that's what we've done, we've adopted</p> <p>3 some of their technology and management from Europe</p> <p>4 word for word, and it's not for the United States.</p> <p>5 Q Okay. All right. I think that's all on</p> <p>6 this document. Do you want to take a break now?</p> <p>7 MR. GODLSTEIN: Yes, let's take a break.</p> <p>8 THE VIDEOGRAPHER: We are off the record.</p> <p>9 The time is 12:23 p.m.</p> <p>10 (Recess.)</p> <p>11 THE VIDEOGRAPHER: We are back on the</p> <p>12 record. The time is 12:36 p.m.</p> <p>13 (Deposition Exhibit 10 was marked for</p> <p>14 identification by the court reporter</p> <p>15 and is attached hereto.)</p> <p>16 BY MR. OLSON:</p> <p>17 Q I've handed you what's been marked Bell</p> <p>18 Exhibit 10. It's Bates-stamped BELL004353 through</p> <p>19 -4354.</p> <p>20 And can you identify this as a document</p> <p>21 that you received from Jerry Faulkner of the United</p> <p>22 States Egg Marketers sometime prior to January 18th,</p> <p>23 2000?</p> <p>24 A Yes, it was -- it is.</p> <p>25 Q And it references you agreeing to come</p>	<p style="text-align: right;">116</p> <p>1 But I don't know if this has got the hard</p> <p>2 copy set of slides or anything like that.</p> <p>3 Q I don't think I have that.</p> <p>4 A Okay.</p> <p>5 Q And if you look at the next page where it</p> <p>6 says "Also, Don" -- do you see that?</p> <p>7 A Yes.</p> <p>8 Q -- "let me know how to adequately</p> <p>9 compensate you for your time and effort for this</p> <p>10 presentation."</p> <p>11 Do you recall how you were compensated?</p> <p>12 A I have no idea. At least expenses.</p> <p>13 Q Okay. You can put that aside.</p> <p>14 (Deposition Exhibit 11 was marked for</p> <p>15 identification by the court reporter</p> <p>16 and is attached hereto.)</p> <p>17 BY MR. OLSON:</p> <p>18 Q Now let me hand you what's been marked Bell</p> <p>19 11.</p> <p>20 A Thank you. Okay.</p> <p>21 Q This is a document entitled,</p> <p>22 "Recommendations for UEP Animal Welfare Guidelines,"</p> <p>23 dated September 2000, Bates-stamped UE0208684</p> <p>24 through -208703.</p> <p>25 And can you generally identify this</p>
<p style="text-align: right;">115</p> <p>1 present a report to the USEM membership on January</p> <p>2 18th, 2000, correct?</p> <p>3 A Yes.</p> <p>4 Q And does that refresh your recollection</p> <p>5 that you were invited to --</p> <p>6 A Yes.</p> <p>7 Q -- present to USEM?</p> <p>8 Okay. Just briefly, at the bottom of page</p> <p>9 1, do you see where it says, "Following your</p> <p>10 presentation, the membership will take up the</p> <p>11 subject of reducing each member's total hen numbers</p> <p>12 during this year through slaughter, rendering, et</p> <p>13 cetera, as well as cutting chick placements"?</p> <p>14 A Yes.</p> <p>15 Q It says, "Your presentation will 'set the</p> <p>16 stage' for consideration of these flock reduction</p> <p>17 programs."</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q Do you recall this meetings?</p> <p>21 A Vaguely. I think I mentioned it earlier</p> <p>22 that I thought I had been to one. And when I saw</p> <p>23 Faulkner's name, then I recognized it. I was,</p> <p>24 frankly, thinking of one of his successor, and</p> <p>25 that's why I couldn't relate it.</p>	<p style="text-align: right;">117</p> <p>1 document for us, Mr. Bell?</p> <p>2 A Well, it appears to be a set of guidelines</p> <p>3 that the advisory committee gave to UEP, but I don't</p> <p>4 know whether it was a final copy of this particular</p> <p>5 document or whether it was -- the fact that it says</p> <p>6 "confidential" at the bottom makes me think it was</p> <p>7 an in-progress report.</p> <p>8 Q Well, I can tell you that it was</p> <p>9 represented to us by UEP counsel and Gene Gregory</p> <p>10 that this is the final copy.</p> <p>11 A This is the final?</p> <p>12 Q If that's helpful.</p> <p>13 A This is an old copy, of course. The</p> <p>14 current one is around 210 -- 2010, or something.</p> <p>15 Q Okay. Let's just look at a couple -- but,</p> <p>16 in any case, this document, to the extent it was the</p> <p>17 final one, would have been the initial set of</p> <p>18 recommendations?</p> <p>19 A It follows our first meeting in 1999,</p> <p>20 right.</p> <p>21 Q Right.</p> <p>22 A So it would be -- I'm sure this is the</p> <p>23 first document, quote unquote.</p> <p>24 Q That that was the official recommendations</p> <p>25 of the Scientific Advisory Committee?</p>

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<p style="text-align: right;">118</p> <p>1 A But I don't know how far this goes. Has</p> <p>2 UEP accepted this at this point?</p> <p>3 Q Well, I can't answer that one for you.</p> <p>4 A Okay.</p> <p>5 Q Let's just page through it a little bit.</p> <p>6 If you go a few pages in, there is a headline that</p> <p>7 says, "Beak Trimming Laying Strains of Chickens"?</p> <p>8 A Yes.</p> <p>9 Q Were you involved in forming</p> <p>10 recommendations about beak trimming?</p> <p>11 A In this particular -- wait. I probably</p> <p>12 commented on it, because we've done a lot of</p> <p>13 research on it in the committee, but I believe this</p> <p>14 was written by Scotti Hester, one of the members, I</p> <p>15 believe this is, and she's fantastic. And I don't</p> <p>16 think there is any aspect that I would have</p> <p>17 disagreed with.</p> <p>18 Q All right. So if you look at where it says</p> <p>19 "Beak Trimming Recommendations for UEP Guidelines,"</p> <p>20 probably the next page.</p> <p>21 A Oh, next page? Go ahead.</p> <p>22 Q The first recommendation there, do you see</p> <p>23 it? "Where possible, producers should select</p> <p>24 genetic stocks that require little or no beak</p> <p>25 trimming"?</p>	<p style="text-align: right;">120</p> <p>1 Allowances, and Environment."</p> <p>2 A On the page -- there we go.</p> <p>3 Q Do you see that heading?</p> <p>4 A Got it.</p> <p>5 Q Now, I take it, Mr. Bell, that with regard</p> <p>6 to housing, cage space density wasn't the only issue</p> <p>7 the scientific committee thought was important?</p> <p>8 A I would hope not.</p> <p>9 Q The committee also thought feeder space was</p> <p>10 important, right?</p> <p>11 MR. TAKENOUCHI: Objection to form.</p> <p>12 THE WITNESS: I personally did, because I</p> <p>13 was -- I was one of the first ones to do work with</p> <p>14 feeder space, and we demonstrated up to 6 inches.</p> <p>15 But if you look at the final part of this thing, I'm</p> <p>16 not sure whether we wound up with 4 inches or we</p> <p>17 wound up with enough space for all the birds to eat</p> <p>18 at the same time.</p> <p>19 BY MR. OLSON:</p> <p>20 Q If you look -- go ahead and page towards</p> <p>21 the recommendations, "Housing Recommendations For</p> <p>22 Caged Hens for the UEP Guidelines"?</p> <p>23 A Where are we? Conclusion, or what?</p> <p>24 "Housing Recommendations" -- go ahead.</p> <p>25 Q If you look at point 4 --</p>
<p style="text-align: right;">119</p> <p>1 A That's the easy way out, yes.</p> <p>2 Q And that's the recommendation of the</p> <p>3 Scientific Advisory Committee, correct?</p> <p>4 MR. TAKENOUCHI: Objection to form.</p> <p>5 THE WITNESS: That would be the first</p> <p>6 recommendation. I don't --</p> <p>7 BY MR. OLSON:</p> <p>8 Q Their first recommendation?</p> <p>9 A Yes.</p> <p>10 Q And do you know if UEP adopted that</p> <p>11 recommendation --</p> <p>12 A Doesn't this represent the final copy, or</p> <p>13 not?</p> <p>14 Q Well, this is the Scientific Advisory</p> <p>15 Committee guidelines. I'm saying in the UEP</p> <p>16 producer guidelines, do you know if --</p> <p>17 A I don't think they would have changed that.</p> <p>18 That's not an argumentative thing.</p> <p>19 Q That was not a controversial</p> <p>20 recommendation?</p> <p>21 A It's like motherhood, you wouldn't complain</p> <p>22 about motherhood, would you?</p> <p>23 Q I certainly wouldn't.</p> <p>24 All right. If we look at the next heading,</p> <p>25 this is the one that says, "Housing, Space</p>	<p style="text-align: right;">121</p> <p>1 A Go ahead.</p> <p>2 Q What does point 4 indicate about the</p> <p>3 consensus of the Scientific Advisory Committee?</p> <p>4 A Well, it says 4 inches.</p> <p>5 Q Minimum 4 inches per bird?</p> <p>6 A Yes. Do you want me to continue or you've</p> <p>7 had enough answer?</p> <p>8 Q Let me try a couple questions.</p> <p>9 A Go ahead. You forget you're talking to an</p> <p>10 extension person.</p> <p>11 Q And who, on the committee, was principally</p> <p>12 responsible for this section, to your knowledge?</p> <p>13 A This was written, like I say, by Scotti</p> <p>14 Hester. If you go to the front of the page --</p> <p>15 Q The beak trimming?</p> <p>16 A Scotti Hester.</p> <p>17 Q That's a woman?</p> <p>18 A That's a lady.</p> <p>19 Q Okay. Did Dr. Hester also draft the</p> <p>20 housing --</p> <p>21 A We're on housing now?</p> <p>22 Q Yes.</p> <p>23 A Okay. Pardon me.</p> <p>24 Housing, if it involves a lot of cage</p> <p>25 density, it was probably done by Joy Mench, and I</p>

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<p>1 think she probably had a co-writer. It wasn't me, I</p> <p>2 think, even though -- let me see, did I -- I</p> <p>3 probably submit -- yeah, we were all asked to submit</p> <p>4 our thinking about each person's original draft.</p> <p>5 Q And then you all signed off on the final?</p> <p>6 A We all signed off on the final. I don't</p> <p>7 think we were antagonistic about anything at that</p> <p>8 point.</p> <p>9 Q And would it be fair to say that the</p> <p>10 consensus of the advisory committee is that feeder</p> <p>11 space was a critical element affecting welfare?</p> <p>12 MR. TAKENOUCHI: Objection; form, leading,</p> <p>13 foundation.</p> <p>14 THE WITNESS: The committee, I don't think,</p> <p>15 was as firm as I was. Remember, we had -- worldwide</p> <p>16 we had over 50 million chickens working on the</p> <p>17 feeder space part of that. And they bought and</p> <p>18 built all over the world. And up to that point, up</p> <p>19 to that point, 4 inches was kind of the exception.</p> <p>20 BY MR. OLSON:</p> <p>21 Q And if you look back at the prior page, the</p> <p>22 one that ends in -92?</p> <p>23 MR. GODLSTEIN: Go one page.</p> <p>24 THE WITNESS: Okay.</p> <p>25 MR. GODLSTEIN: Back.</p>	<p>1 abandoned. I went as far as 6.</p> <p>2 Q Now, did the UEP producer guidelines, to</p> <p>3 your knowledge, ever accept this recommendation that</p> <p>4 4 inches of feeder space must be provided to hens?</p> <p>5 A Well, unless this is -- this is not -- you</p> <p>6 say this is not the first document? You say it's a</p> <p>7 draft from the committee, right?</p> <p>8 Q This is the final --</p> <p>9 A Draft?</p> <p>10 Q Well, the final -- it's not a draft. It's</p> <p>11 the final initial guidelines.</p> <p>12 A It's not the publication?</p> <p>13 Q It is not the UEP publication. This is the</p> <p>14 Scientific Advisory Committee --</p> <p>15 A Scientific Advisory Committee, at this</p> <p>16 point, but I don't think the first published one to</p> <p>17 the general public used the word 4 inches. Okay?</p> <p>18 Q Are you talking about the UEP guidelines?</p> <p>19 A No, I'm talking about the UEP published</p> <p>20 guidelines in -- definitely in 2010 and 2008, and</p> <p>21 there's been about three or four versions of this</p> <p>22 thing.</p> <p>23 The very first one of these things that was</p> <p>24 publicly released to their members, to their</p> <p>25 members, I'm not sure whether it says 4 or enough</p>
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<p>1 THE WITNESS: The other way?</p> <p>2 MR. GODLSTEIN: Yes.</p> <p>3 THE WITNESS: Okay. Go ahead.</p> <p>4 BY MR. OLSON:</p> <p>5 Q All right. Do you see where it says</p> <p>6 towards the top, "The research on space allowances</p> <p>7 can be summarized as follows"?</p> <p>8 A Yes. Go ahead.</p> <p>9 Q And if you look at the last bullet there,</p> <p>10 second sentence says, "Feeder space is a critical</p> <p>11 element affecting" --</p> <p>12 A Yes.</p> <p>13 Q -- "affecting welfare," right?</p> <p>14 Was that the view of the committee?</p> <p>15 MR. TAKENOUCHI: Objection; foundation.</p> <p>16 THE WITNESS: I believed it was, but not to</p> <p>17 the point of the exact number.</p> <p>18 BY MR. OLSON:</p> <p>19 Q Well, if you look at the bottom of that</p> <p>20 bullet --</p> <p>21 A Yeah.</p> <p>22 Q -- doesn't it say 4 inches of feed- --</p> <p>23 A It does, but eventually not too much later</p> <p>24 this became enough so that all the chickens could</p> <p>25 eat at the same time, and the 4 inches was</p>	<p>1 for all the chickens.</p> <p>2 Q Fair enough.</p> <p>3 Now, feeder space is important, as I</p> <p>4 understand it, because within hens there is a</p> <p>5 pecking order, right?</p> <p>6 A Go ahead.</p> <p>7 Q And there's some --</p> <p>8 A Demonstrate your knowledge.</p> <p>9 Q Let me try and tell me if I'm right.</p> <p>10 There are some that are socially dominant?</p> <p>11 A Yes.</p> <p>12 Q And there are some that are socially --</p> <p>13 A Recessive.</p> <p>14 Q -- recessive?</p> <p>15 And the concern is that the socially</p> <p>16 dominant ones won't let the socially recessive ones</p> <p>17 eat enough unless there is enough feeder space for</p> <p>18 all the hens?</p> <p>19 MR. TAKENOUCHI: Objection to form.</p> <p>20 BY MR. OLSON:</p> <p>21 Q Is that a fair characterization?</p> <p>22 A That's fair. It is more complex than that,</p> <p>23 but go ahead.</p> <p>24 Q How would you describe it, the importance</p> <p>25 of feeder space?</p>

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<p>1 A First of all, you have dominant birds</p> <p>2 picking over the food and taking out the -- mostly</p> <p>3 the grain, which is like dessert, you know, they</p> <p>4 prefer that. And that's where the carbohydrate --</p> <p>5 that's where the energy is.</p> <p>6 So you are starting to imbalance the diet</p> <p>7 by limiting the feeder space.</p> <p>8 Pictures that we drew about the original</p> <p>9 cage space issue is that maybe three birds would be</p> <p>10 at the feed trough and one bird would have to stand</p> <p>11 in the back.</p> <p>12 And when you change the bird numbers, you</p> <p>13 change about four things. You change the colony</p> <p>14 size, you change the feeder space, you change the</p> <p>15 amount of water -- watering per bird.</p> <p>16 So to separate the feeder space from the</p> <p>17 floor space, that's a difficult exercise, to</p> <p>18 separate which is most important. All the eggs that</p> <p>19 you lose are feeder space, all the eggs you lose are</p> <p>20 floor space, it is very difficult.</p> <p>21 We developed formulas in our research where</p> <p>22 you could assign numbers to each element, because we</p> <p>23 had all kinds of cases. You go out in the field and</p> <p>24 the farmer doesn't have a clue.</p> <p>25 Q Now, as far as the floor space aspect, the</p>	<p>1 the research has been in that range.</p> <p>2 I personally have done research beyond that</p> <p>3 range, and I've -- I gave her copies showing</p> <p>4 continuing decrease in production beyond 72, and</p> <p>5 certainly beyond 67.</p> <p>6 Q Continuing decrease?</p> <p>7 A Decrease in production -- pardon me,</p> <p>8 increase in production --</p> <p>9 Q Increase in production?</p> <p>10 A -- as you went to the higher numbers.</p> <p>11 You picked me up on that one quick.</p> <p>12 Q Right. So above -- your research indicated</p> <p>13 that above 72, the hens keep producing more.</p> <p>14 Did your research look at the mortality</p> <p>15 issue?</p> <p>16 A Oh, yeah, always does.</p> <p>17 Q Above 72?</p> <p>18 A Always does that.</p> <p>19 Q And the mortality rates get better above</p> <p>20 72 --</p> <p>21 A They get better, go down with increasing</p> <p>22 space.</p> <p>23 Q Yes. And if you look at the fourth bullet</p> <p>24 here, the committee says, "Measurements of white</p> <p>25 leghorn hens show that they require about 65 to 83</p>
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<p>1 first bullet here indicates that the conclusion of</p> <p>2 the research, and it says, "Numerous studies" --</p> <p>3 A Go ahead.</p> <p>4 Q -- "have shown that decreasing space</p> <p>5 allowances in cages to below approximately 72 square</p> <p>6 inches per hen significantly reduces henhouse egg</p> <p>7 production and increases mortality," right?</p> <p>8 MR. TAKENOUCHI: Objection; misstates the</p> <p>9 document.</p> <p>10 THE WITNESS: Yes. That's an open-ended</p> <p>11 amount of space.</p> <p>12 BY MR. OLSON:</p> <p>13 Q 72 square inches?</p> <p>14 A 72 is one, but then we got below that. You</p> <p>15 are talking about the -- where are we at here? The</p> <p>16 different study, "numerous studies." Okay. There</p> <p>17 was a range of about 67 to 86.</p> <p>18 Okay. So 67, 80, 86, you're going to get a</p> <p>19 curve of the issue here.</p> <p>20 70 -- now, what Joy Mench says is that once</p> <p>21 you get to 72, you're just about done. Well, the</p> <p>22 problem -- just about done all the effective. You</p> <p>23 could add a square foot to that and you wouldn't add</p> <p>24 any more eggs.</p> <p>25 And why does she say that? Because most of</p>	<p>1 square inches to perform even the most basic</p> <p>2 behaviors, standing comfortably and resting, and</p> <p>3 more room is required to perform other" --</p> <p>4 A Yeah.</p> <p>5 Q Was that consistent with your research too?</p> <p>6 A Well, we didn't look at the wing flapping,</p> <p>7 you know, we didn't look at behavioral things. We</p> <p>8 did practical research that the farmer could</p> <p>9 duplicate.</p> <p>10 And he can count eggs and he can weigh the</p> <p>11 eggs and he can weigh the chickens and he can look</p> <p>12 at the mortality, but he can't sit out there with a</p> <p>13 TV camera determining how many flaps per hour the</p> <p>14 chickens wave their wings. That's got to be done in</p> <p>15 a laboratory.</p> <p>16 Q All right. One more quick question on this</p> <p>17 document. If you turn to the molting section --</p> <p>18 A Got it.</p> <p>19 Q -- and I'm looking at the recommendation</p> <p>20 part, the document ends in -98. It says, "Molting</p> <p>21 Recommendations for UEP Guidelines."</p> <p>22 A Yeah.</p> <p>23 Q Basically the committee concluded that</p> <p>24 there were animal welfare concerns with molting</p> <p>25 through forced starvation, right?</p>

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<p>1 A Feed withdrawal.</p> <p>2 Q And that that feed withdrawal raised</p> <p>3 genuine animal welfare concerns; is that fair?</p> <p>4 MR. TAKENOUCHI: Object to the form.</p> <p>5 THE WITNESS: Say that again.</p> <p>6 BY MR. OLSON:</p> <p>7 Q The committee concluded that the feed</p> <p>8 withdrawal raised animal welfare concerns?</p> <p>9 A Yes.</p> <p>10 Q And encouraged producers and researchers to</p> <p>11 develop alternatives?</p> <p>12 A Yes.</p> <p>13 Q And recommended that in the meantime the</p> <p>14 shortest period of feed withdrawal period should be</p> <p>15 used?</p> <p>16 A Yes.</p> <p>17 Q And did you have an understanding at that</p> <p>18 time of what the shortest period of feed withdrawal</p> <p>19 possible was?</p> <p>20 A Yes.</p> <p>21 Q And what was that?</p> <p>22 A Oh, you don't want me to do that, do you?</p> <p>23 You said yes or no. That's okay. I'm kidding you.</p> <p>24 We experimented with as short as four or</p> <p>25 five days and as long as 16 days.</p>	<p>1 days?</p> <p>2 A We've done away with that. We don't take</p> <p>3 feed away at all today.</p> <p>4 Q I'm talking about this time.</p> <p>5 A Back then, I don't think anybody would have</p> <p>6 gone that short. It was experimental.</p> <p>7 Q Wasn't McDonald's insisting --</p> <p>8 A I don't know about McDonald's. I've gotten</p> <p>9 their letters through the years. They probably</p> <p>10 didn't want us to take the feed away at all. I</p> <p>11 don't know.</p> <p>12 (Deposition Exhibit 12 was marked for</p> <p>13 identification by the court reporter</p> <p>14 and is attached hereto.)</p> <p>15 BY MR. OLSON:</p> <p>16 Q Let me hand you what we've marked</p> <p>17 Exhibit 12.</p> <p>18 A What do we have here?</p> <p>19 MR. GODLSTEIN: Do you have one more?</p> <p>20 THE WITNESS: I've seen this before.</p> <p>21 BY MR. OLSON:</p> <p>22 Q This is Bates-stamped UE0840403 through</p> <p>23 -404.</p> <p>24 And can you identify it as an e-mail</p> <p>25 Mr. Gregory wrote to you on December 12, 2000?</p>
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<p>1 When I first heard anybody was using ten</p> <p>2 days, I was amazed, I didn't believe it. But as we</p> <p>3 did maybe 30 or 40 experiments a year, it sort of</p> <p>4 appeared that you could improve results by going up</p> <p>5 to ten days, maybe in some cases 12 days.</p> <p>6 So we put a set of conditions. We said</p> <p>7 that you could only have so much body weight loss,</p> <p>8 so that means they had to weigh the chickens every</p> <p>9 day. You could only have so much mortality, so you</p> <p>10 count the dead birds until you got to a certain</p> <p>11 level, or you say definitely don't go more than 14</p> <p>12 or 16 days.</p> <p>13 Q But my question is: Was there an</p> <p>14 understanding at the time of what the shortest</p> <p>15 period --</p> <p>16 A Well, that's what I told you. I said --</p> <p>17 Q Four or five days?</p> <p>18 A -- we started with four or five days.</p> <p>19 You've got to get the birds out of production and</p> <p>20 into a rest. And the shortest you can do is put</p> <p>21 them right back on a laying mesh and you get this</p> <p>22 flush of production right at the beginning, but they</p> <p>23 poop out towards the end.</p> <p>24 Q So it's possible to induce hens into a molt</p> <p>25 by depriving them of food for only four or five</p>	<p>1 A Yes.</p> <p>2 Q And it's referring to the terms of your</p> <p>3 contract with UEP?</p> <p>4 A That's correct.</p> <p>5 Q And it indicates you had proposed to be</p> <p>6 paid about \$18,000 a year, and Mr. Gregory had --</p> <p>7 offered to compromise at \$15,000, correct?</p> <p>8 A Let me see. Where does it say -- there it</p> <p>9 is -- you have proposed 18-. Could we reach a</p> <p>10 compromise at 15- -- that's what we wound up doing,</p> <p>11 yeah. I think it was 1,250 a month. I think that's</p> <p>12 15-, isn't it?</p> <p>13 Q Right. You can put that away.</p> <p>14 (Deposition Exhibit 13 was marked for</p> <p>15 identification by the court reporter</p> <p>16 and is attached hereto.)</p> <p>17 BY MR. OLSON:</p> <p>18 Q Let me hand you what's marked Bell</p> <p>19 Exhibit 13 very briefly.</p> <p>20 This is Bates-stamped UE0790540 through</p> <p>21 -542.</p> <p>22 I'll just ask if you can identify this as</p> <p>23 the executed financial consulting agreement between</p> <p>24 you and UEP?</p> <p>25 A Yes, it is.</p>

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<p>1 Q And it indicates that you would be paid at 2 a rate of -- 3 A Yes. 4 Q -- \$1,250 per month? 5 A I'm not supposed to interrupt you. I'm 6 sorry. 7 Yes. 8 Q And also that if you are requested to 9 attend UEP committee and board of director meetings, 10 you would be reimbursed at a rate of 500 per day, 11 plus travel and lodging expenses. 12 Do you see that? 13 A Yes. 14 Q Is that consistent with how you were paid 15 over the years? 16 A I don't recall the 500-per-day part of it. 17 The travel and lodging, obviously they paid for it. 18 The 500 a day is essentially, I guess, of what I'm 19 being paid up here for a month of 2 1/2 days a month 20 or something like that. But it's just to take care 21 of the extra, the extra costs, my time. I've 22 already given them the 1,250's worth, and going to 23 this special meeting, they have to pay for that too. 24 Q Yeah, I just wanted you to verify this is 25 the terms of the --</p>	<p>1 right? 2 A Yes. 3 Q And that's what was being proposed by the 4 advisory committee at this time? 5 MR. TAKENOUCHI: Objection; form, misstates 6 prior testimony. 7 BY MR. OLSON: 8 Q Right? 9 A The proposal that we have here, we talked 10 about earlier, was dated 2000, was it? 11 Q September 2000. 12 A September 2000? 13 This letter was dated December 2000. So it 14 was probably my attempt to show both sides of the 15 issue from an economic standpoint or several sides 16 of the issue, which is my normal obligation to my 17 clients. 18 And I do not know whether this was a 19 specific request on the part of anybody or whether 20 it just became my idea and something to comment on. 21 Q Okay. Now, if you look at the third 22 paragraph -- 23 A Go ahead. 24 Q Why don't you review that third paragraph 25 that starts, "The guidelines."</p>
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<p>1 A I'm sorry. I haven't seen this letter for 2 ages. 3 Q Okay. You can put that aside. 4 A Okay. 5 What is this on the back? Anything? Oh, 6 it is taxpayer identification. 7 Go ahead. 8 (Deposition Exhibit 14 was marked for 9 identification by the court reporter 10 and is attached hereto.) 11 BY MR. OLSON: 12 Q Let me hand you what we've marked as Bell 13 14. 14 A Something I remember. 15 Q This is a document Bates-stamped 16 BELL-D-00028020 through -31. 17 And I'll ask if you can identify this as an 18 Egg Economics Update dated December 31, 2000 that 19 you authored? 20 A Yes, yes. 21 Q Okay. And you recall this particular 22 update? 23 A Yes. 24 Q And what it addresses is the economic 25 implications of reducing cage density in the U.S.,</p>	<p>1 A On the first page? 2 Q Yes. Let me know when you're done. 3 A Okay. 4 Q All right. You end it by saying, "Major 5 economic issues are involved with the question of 6 space and compliance with the specific space 7 allowance recommendations will be difficult to 8 accomplish by persuasion alone." 9 Do you see that? 10 A Yes. 11 Q And what did you mean by that? 12 A This is very -- at the root issue of bird 13 numbers that I can have in my chicken house. 14 And everything that I do on this farm has 15 to do with efficient use of facilities, egg 16 processing plants, feed mills, chicken houses, and 17 so on, and so it's a multi-faceted question and 18 problem. 19 And it would be, and I think it has turned 20 out to be, one of the most difficult for people to 21 accept all aspects of that. I think they lost 22 membership because -- because of too -- these 23 requirements are too stringent. But that's why I 24 said. 25 Q All right. And if you look at page 4,</p>

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<p>1 there is a heading that says, "Economic Benefits 2 From Reducing Cage Density"? 3 A Yes, yes. 4 Q And there is a subheading that says, 5 "National Participation to Balance Supply With 6 Demand." 7 Do you see that? 8 A Uh-huh. 9 Q You say, "A broad industry-wide acceptance 10 of the historically proven fact that the industry 11 makes more with less (more profits with less hens) 12 would be the greatest windfall of following the UEP 13 proposed guidelines." 14 Do you see that? 15 A I sure do. 16 Q And that was your view at the time, right? 17 A Yes. 18 Q And then in bold underlined it says, "The 19 task is to devise the method and motivation to 20 accomplish it voluntarily." 21 Do you see that? 22 A Yes. 23 Q And how was that ultimately done? 24 MR. TAKENOUCHI: Object to form. 25 THE WITNESS: How is what?</p>	<p>1 identified, to your knowledge, or how was that 2 solved? 3 MR. TAKENOUCHI: Objection to form. 4 THE WITNESS: Well, it says, "Following the 5 UEP proposed guidelines." Then it says, "The task 6 is to devise the method and motivation to accomplish 7 it voluntarily." 8 And that still exists today, it existed 9 when the program was first introduced. 10 BY MR. OLSON: 11 Q When you say "the program," you're talking 12 about the UEP-certified program? 13 A Yes, yes. 14 Q And that was the method to accomplish this? 15 MR. TAKENOUCHI: Objection to form. 16 BY MR. OLSON: 17 Q That program? 18 MR. TAKENOUCHI: Objection to form. 19 THE WITNESS: Let me think what you're 20 saying here. 21 "To devise the method and motivation to 22 accomplish it voluntarily." 23 BY MR. OLSON: 24 Q Right. 25 A To make more money with less hens.</p>
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<p>1 BY MR. OLSON: 2 Q Ultimately done. 3 A Ultimately done? 4 Q Yes. 5 A What are you saying? I'm not sure. 6 Q How was that task of encouraging national 7 participation -- 8 A Well, I assume -- 9 Q -- accomplished? 10 A -- at the time this was written maybe 11 20 percent of the industry was acceptable to the 12 idea, eventually maybe 80 percent. 13 Windfall is something that's unexpected. 14 Unexpected, so it is not planned. It is an 15 unexpected result that these things happen. 16 We didn't go in there -- nobody went in 17 there and said let's reduce the bird numbers by 18 20 million. Because back here someplace we said 19 that they are paying for a million. So we didn't 20 have a target. 21 Q I don't want to focus on the windfall part. 22 This idea of devising a method and motivation to 23 accomplish -- 24 A Uh-huh, yes. 25 Q -- was that method and motivation ever</p>	<p>1 Q Right. My question is: The UEP-certified 2 program was the method that was devised to 3 accomplish that goal, correct? 4 MR. TAKENOUCHI: Objection; misstates prior 5 testimony, speculation. 6 THE WITNESS: I claim there the task is to 7 devise, which means it hasn't been accomplished at 8 that point -- 9 BY MR. OLSON: 10 Q Right. 11 A -- or accepted at that point. 12 Q And at this point, the certified 13 certification expert -- 14 A I don't even use the word "certified." 15 Q So do you know what you're referring to, 16 the method that was devised to accomplish this? 17 A I say it's a task. And I didn't come right 18 in there and say the only way to do this is to 19 reduce the cages, I didn't say that. But we've 20 referred to that with examples within this whole 21 document. 22 Q Let me try this way. You say, "The task to 23 devise the method and motivation to accomplish it 24 voluntarily," was that task ever accomplished? 25 A I would say it was accomplished 80 percent,</p>

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<p>1 yeah.</p> <p>2 Q And you were referring to the UEP certified</p> <p>3 program participation?</p> <p>4 A Well, we are talking about cage density now</p> <p>5 and we're talking about the size of requirements,</p> <p>6 yes, and that was accomplished X percent by the</p> <p>7 auditing procedure.</p> <p>8 Are you familiar with that?</p> <p>9 Q Yes.</p> <p>10 A That the farms were audited by outside</p> <p>11 auditors, and did you meet your goal, did you meet</p> <p>12 your target. And I don't know what the penalty was</p> <p>13 if you didn't, but, anyway.</p> <p>14 Q All right. Now, if you look at page 11 --</p> <p>15 A Yeah.</p> <p>16 Q -- in your summary.</p> <p>17 A Got it.</p> <p>18 Q The third sentence says, "Increasing floor</p> <p>19 space allowances are difficult to justify for the</p> <p>20 individual farm, but if enough producers follow this</p> <p>21 practice, industry profits will be considerably</p> <p>22 higher as supply and demand reach a more optimum</p> <p>23 balance."</p> <p>24 Do you see that?</p> <p>25 A Yes.</p>	<p>1 whole thing is about, you follow the guidelines.</p> <p>2 And you tell a person he has to reduce his</p> <p>3 flock size by 20 percent, sure he can go build</p> <p>4 another chicken house for that 20 percent, he can do</p> <p>5 that --</p> <p>6 Q But that's expensive?</p> <p>7 A But that's expensive. And he's got -- he's</p> <p>8 already got the chickens and he's got a transition</p> <p>9 period to shift from 100 to 80. But when it comes</p> <p>10 time in the deadline and the audit says you still</p> <p>11 have 100 percent, and whatever the penalty is, I'm</p> <p>12 not aware of, but that's the issue.</p> <p>13 Q All right. You can put that aside.</p> <p>14 (Deposition Exhibit 15 was marked for</p> <p>15 identification by the court reporter</p> <p>16 and is attached hereto.)</p> <p>17 BY MR. OLSON:</p> <p>18 Q Let me hand you what we've marked Bell 15.</p> <p>19 MR. GODLSTEIN: Can we make that the last</p> <p>20 document for the day?</p> <p>21 MR. OLSON: Yes.</p> <p>22 Unfortunately, this is a document I just</p> <p>23 have two extra copies of.</p> <p>24 It is Bates-stamped BELL002774 through</p> <p>25 -2777.</p>
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<p>1 Q And I know we've touched on this before,</p> <p>2 but what were you referring to there? What's the</p> <p>3 point you're making there?</p> <p>4 MR. TAKENOUCHI: Objection to form.</p> <p>5 THE WITNESS: One thing follows another.</p> <p>6 Increasing space means you reduce the population.</p> <p>7 Reducing the population reduces the production.</p> <p>8 Reducing the production brings profitability back</p> <p>9 into line or a reasonable profitability. Not</p> <p>10 excessive profitability, a reasonable.</p> <p>11 BY MR. OLSON:</p> <p>12 Q But this aspect about increasing floor</p> <p>13 space allowances are difficult to justify for the</p> <p>14 individual farm --</p> <p>15 A That's because he's got a hundred-case-</p> <p>16 an-hour machine and now you want him to run it at 80</p> <p>17 cases because you're going to reduce his burden</p> <p>18 numbers. He knows that right off the bat. He knows</p> <p>19 his feed mill is going to be shut down one day a</p> <p>20 week. He knows he's going to have to lay off some</p> <p>21 labor, and they've been working for him for 25</p> <p>22 years.</p> <p>23 So, you know, it's easy to say that and</p> <p>24 easy for me to recommend something like that, but</p> <p>25 they have to implement it. I mean, that's what the</p>	<p>1 Q And can you identify this as a document</p> <p>2 that you authored on April 15th, 2002?</p> <p>3 A This is called a memo, and this was started</p> <p>4 with my first relationship with UEP, which I've told</p> <p>5 them that I would do, and it would be all economic,</p> <p>6 it would be -- it would parallel some of the other</p> <p>7 reports that we also told them we would continue to</p> <p>8 produce.</p> <p>9 I'm not sure about this particular -- well,</p> <p>10 you want to go ahead and ask questions. Go ahead.</p> <p>11 Q That's helpful.</p> <p>12 This memo is something that UEP -- that you</p> <p>13 were compensated by UEP for writing?</p> <p>14 MR. TAKENOUCHI: Objection to form,</p> <p>15 misstates prior testimony.</p> <p>16 THE WITNESS: That's what we promised to</p> <p>17 include in our services.</p> <p>18 BY MR. OLSON:</p> <p>19 Q That's a better way of putting it. Thank</p> <p>20 you.</p> <p>21 You say this was written under the</p> <p>22 sponsorship of UEP?</p> <p>23 A Yes.</p> <p>24 Q Just backing up, this Egg Economics Update</p> <p>25 from the last exhibit, how would you describe this</p>

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<p>1 type of document?</p> <p>2 A Well, that was, I believe, started in 1983.</p> <p>3 And it grew out of all of our surveys and studies</p> <p>4 about the price of eggs and the cost of production.</p> <p>5 So it was intended to cover a broad range</p> <p>6 of subjects dealing with economics of the egg</p> <p>7 industry.</p> <p>8 Q And who would you send it to, typically?</p> <p>9 A Every producer and the allied industry</p> <p>10 person that requested to be on the mailing list.</p> <p>11 Q Was it a large mailing list?</p> <p>12 A Our original, when that thing was started,</p> <p>13 it was probably a thousand. Today we are -- we have</p> <p>14 a totally different industry that's shrunk, and</p> <p>15 we're still at a thousand.</p> <p>16 Q Okay. All right. Sorry.</p> <p>17 Now, back to Bell Exhibit 15, what you call</p> <p>18 the memo?</p> <p>19 A Yes.</p> <p>20 Q This is sometimes called a flock</p> <p>21 projection?</p> <p>22 A No, it isn't.</p> <p>23 Q Okay.</p> <p>24 A It says there "flock projection," but this</p> <p>25 is not the official -- this is a memo.</p>	<p>1 A Uh-huh.</p> <p>2 Q What are you referring to there?</p> <p>3 MR. TAKENOUCHI: Objection; foundation.</p> <p>4 THE WITNESS: Where do you see -- oh,</p> <p>5 competitor, next paragraph. Okay.</p> <p>6 You notice that we are talking about 69</p> <p>7 points instead of one cent, and that's because we</p> <p>8 are talking about a different time period.</p> <p>9 BY MR. OLSON:</p> <p>10 Q Okay.</p> <p>11 A Today that number is probably somewhat</p> <p>12 less.</p> <p>13 1 million is possible within several</p> <p>14 individual companies, but half of its reduction</p> <p>15 could be accomplished by two to five companies in</p> <p>16 the whole United States by just reducing their bird</p> <p>17 numbers count by one.</p> <p>18 Q And then I want to focus to the next</p> <p>19 sentence.</p> <p>20 A "We commonly hear the excuse 'If we do it,</p> <p>21 there is no guarantee my competitor would do it.'</p> <p>22 So I gained a competitive advantage because I didn't</p> <p>23 do it. The one guy has a hundred birds in his house</p> <p>24 and I've only got 80 and I've lost competitive</p> <p>25 advantage.</p>
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<p>1 Q A memo, okay. All right.</p> <p>2 And the subject of this one was the effect</p> <p>3 on egg prices and flock performance of reducing cage</p> <p>4 density, right?</p> <p>5 A Yes.</p> <p>6 Q And the first thing you say is, "Reducing</p> <p>7 the nation's average cage density can have numerous</p> <p>8 positive effects on the income and costs of</p> <p>9 individual producers in the industry as a whole,"</p> <p>10 right?</p> <p>11 A Yes.</p> <p>12 Q Now, who are these memos distributed to?</p> <p>13 A I have no idea, but I believe UEP sent it</p> <p>14 to all their members.</p> <p>15 Q So you would send it to UEP, and they</p> <p>16 would --</p> <p>17 A Yes, I sent the original to UEP.</p> <p>18 Q All right.</p> <p>19 Let's just go to the fourth paragraph that</p> <p>20 starts, "A one-million hen reduction."</p> <p>21 A Yes.</p> <p>22 Q You say, "We commonly hear the excuse that</p> <p>23 'If we do it, there is no guarantee that my</p> <p>24 competitor will do it.'"</p> <p>25 Do you see that?</p>	<p>1 Q So is that the type of thing you would hear</p> <p>2 expressed --</p> <p>3 A That's the type of thing.</p> <p>4 Q -- by producers during the course of your</p> <p>5 work?</p> <p>6 A That's right.</p> <p>7 Q Now let's look at page 3.</p> <p>8 A Page 3? Okay.</p> <p>9 Q These are some data you provided.</p> <p>10 A Statistics, right.</p> <p>11 Q Statistic. I wanted to look at number 6</p> <p>12 called "Force Molting."</p> <p>13 A You are on page 33?</p> <p>14 Q Yes.</p> <p>15 A Excuse me. Go ahead.</p> <p>16 Q All right. And there is data regarding</p> <p>17 force molting?</p> <p>18 A Yes.</p> <p>19 Q Now, this force molting, that's the forced</p> <p>20 starvation of feed withdrawal from the hen, right?</p> <p>21 A At that time that was a very common way,</p> <p>22 yes.</p> <p>23 Q And what this indicates is that from 2000</p> <p>24 to 2001 molting increased, right?</p> <p>25 A Let me explain something. Okay?</p>

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<div>150</div> <div><p>1 This does not say what percentage of the</p><p>2 chickens are molted, it says what percentage of the</p><p>3 chickens have been molted or are being molted.</p><p>4 Q Okay.</p><p>5 A Actually, at this point in time probably</p><p>6 two-thirds to 70 percent of all chickens were</p><p>7 molted.</p><p>8 Q Okay.</p><p>9 A Do you follow the difference between that</p><p>10 statement?</p><p>11 Q I think so.</p><p>12 A Okay. Go ahead.</p><p>13 Q And what you show here is from 2000 to</p><p>14 2001 --</p><p>15 A There was a slight increase.</p><p>16 Q -- force molting, there was an increase?</p><p>17 A In January and for the two months. And we</p><p>18 would start to think, well, January and February, is</p><p>19 this thing going to go three or four months, is it</p><p>20 going to keep going? If it keeps going, then people</p><p>21 will start to say, well, maybe it is going to result</p><p>22 in less eggs.</p><p>23 Q And also there was more molting happening</p><p>24 in January and February of 2002 than January and</p><p>25 February of 2000?</p></div>	<div>152</div> <div><p>1 MR. TAKENOUCHI: Objection to form.</p><p>2 THE WITNESS: That's the one letter we</p><p>3 wrote way back here that says it is not a matter of</p><p>4 molting versus not molting, it is a matter of egg</p><p>5 production.</p><p>6 BY MR. OLSON:</p><p>7 Q And if you look at point 7, slaughter -- do</p><p>8 you see that?</p><p>9 A Go ahead.</p><p>10 Q That's the number of birds that are</p><p>11 slaughtered?</p><p>12 A In a USDA slaughter plant.</p><p>13 Q Yes. And from 2000 to 2002 there was an</p><p>14 increase in the number of birds that were</p><p>15 slaughtered --</p><p>16 A That's what it says.</p><p>17 Q -- as well?</p><p>18 All right. That's all. We can take a</p><p>19 break.</p><p>20 THE VIDEOGRAPHER: Off the record.</p><p>21 We are off the record. The time is 1:16</p><p>22 p.m.</p><p>23 (TIME NOTED: 1:16 p.m.)</p><p>24</p><p>25</p></div>																																							
<div>151</div> <div><p>1 A That's what it says, yeah. And then 2002</p><p>2 you went back down.</p><p>3 Q No, but 2002 is still more than what's</p><p>4 happening in 2000?</p><p>5 A Oh, yeah, yeah, yeah. This is normal</p><p>6 fluctuation.</p><p>7 Q Okay. But it's an increase -- just stick</p><p>8 with me for a moment.</p><p>9 A Go ahead.</p><p>10 Q In both 2001 and 2002 there was more</p><p>11 molting happening than in the same period --</p><p>12 A Yes, exactly.</p><p>13 Q And isn't it kind of odd that was happening</p><p>14 when the guidelines say that force molting has</p><p>15 animal welfare problems?</p><p>16 A No.</p><p>17 MR. TAKENOUCHI: Objection to form,</p><p>18 misstates prior testimony.</p><p>19 BY MR. OLSON:</p><p>20 Q Why did molting increase if the Scientific</p><p>21 Advisory Committee --</p><p>22 A Because they decided economically that it</p><p>23 was justified.</p><p>24 Q And it wasn't prohibited either, was it?</p><p>25 A Never prohibited.</p></div>	<div>153</div> <div><p>1 ACKNOWLEDGMENT OF DEPONENT</p><p>2 I, DONALD L. BELL, do hereby certify</p><p>3 that I have read the foregoing transcript of my</p><p>4 testimony, and further certify that it is a true</p><p>5 and accurate record of my testimony (with the</p><p>6 exception of the corrections listed below):</p><table><tr><td>Page</td><td>Line</td><td>Correction</td></tr><tr><td>8</td><td></td><td></td></tr><tr><td>9</td><td></td><td></td></tr><tr><td>10</td><td></td><td></td></tr><tr><td>11</td><td></td><td></td></tr><tr><td>12</td><td></td><td></td></tr><tr><td>13</td><td></td><td></td></tr><tr><td>14</td><td></td><td></td></tr><tr><td>15</td><td></td><td></td></tr><tr><td>16</td><td></td><td></td></tr><tr><td>17</td><td></td><td></td></tr><tr><td>18</td><td></td><td></td></tr><tr><td>19</td><td></td><td></td></tr></table><p>20</p><p>21 _____</p><p>22 DONALD L. BELL</p><p>23 SUBSCRIBED AND SWORN TO BEFORE ME</p><p>24 THIS ____ DAY OF _____, 20__.</p><p>25 _____</p><p>(NOTARY PUBLIC) MY COMMISSION EXPIRES:</p></div>	Page	Line	Correction	8			9			10			11			12			13			14			15			16			17			18			19		
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1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were placed under oath; that a
8 true and correct record of the proceedings was made
9 by me using machine shorthand which was thereafter
10 transcribed under my direction; further, that the
11 foregoing is an accurate transcription thereof.

12 I further certify that I am neither
13 financially interested in the action nor a relative
14 or employee of any attorney of any of the parties.

15 IN WITNESS WHEREOF, I have this date
16 subscribed my name.

17 Dated: 8/23/13
18
19

20 _____
DENISE BARDSLEY
CSR No. 11241
21
22
23
24
25

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ACKNOWLEDGMENT OF DEPONENT

I, DONALD ^{D.}~~X~~. BELL, do hereby certify ^{DB}
 that I have read the foregoing transcript of my
 testimony, and further certify that it is a true
 and accurate record of my testimony (with the
 exception of the corrections listed below):

Page	Line	Correction
17	21	Moart
passim		DONALD L. BELL
19	25	"feeding of any flocks"
26	20	UAP
41	9	"over given a period"
52	16	"1:4.15"
53	25	"as well as shellings"
66	22	"human society"
131	3	delete "a year"
149	20	of
passim		GODLSTEIN

Donald D. Bell

DONALD ^{D.}~~X~~. BELL

State of California County of Riverside
 Subscribed and sworn to (or affirmed) before me
 on this 29th day of October, 2013
 by Donald D. Bell
 proved to me on the basis of satisfactory evidence
 to be the person(s) who appeared before me.

SUBSCRIBED AND SWORN TO BEFORE ME

THIS _____ DAY OF _____, 20____

Signature [Signature]

(NOTARY PUBLIC)

MY COMMISSION EXPIRES: June 28th, 2017

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